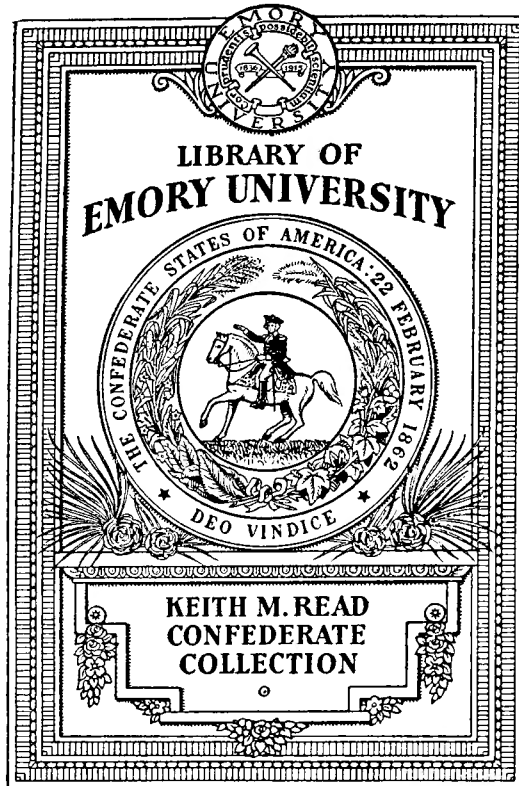


PROCEEDINGS
OF A
GENERAL COURT MARTIAL,
IN THE TRIAL OF
COL. F. W. McMASTER,
17TH REGIMENT, S. C. V.,
HELD AT
WILMINGTON, N. C.,
MARCH 30th, 1863.

COLUMBIA, S. C.:
SOUTH CAROLINIAN STEAM PRESS.
1863.



PREFACE.

My object in publishing the proceedings of this trial in full, is that all the facts relating to it may be spread before the public, to enable it to form its own judgment on the subject.

I have waited for two months, in order to get the official copy, so that the proceedings might be printed *secundum artem*, but have failed thus far. To avoid further delay, I use a copy in my possession, which will not differ materially from the original. The testimony of the witnesses who appeared in Court, was taken down by Lt. D. J. Logan, of the 17th Regiment, S. C. V., and, to insure accuracy, was compared daily with that taken by the Judge Advocate.

This case, which is peculiar in many respects, will form one of the curiosities of Military Trials. It will amply repay a perusal.

F. W. McMASTER,

Col. 17th Regiment, S. C. V.

Columbia, S. C., June 16th, 1863.

PROCEEDINGS.

HEADQUARTERS DEPARTMENT VA. AND N. C.,
At Wilmington, N. C., March 7th, 1863.

[General Orders No. 24.]

A General Court Martial is hereby appointed to meet at Wilmington, N. C., on the 10th day of March, 1863, or as soon thereafter as possible, for the trial of such prisoners as may be brought before it.

DETAIL FOR THE COURT.

Colonel W. W. Ransom, 35th Regiment N. C. T.

Colonel L. M. McAfee, 49th Regiment N. C. T.

Colonel H. L. Benbow, 23d Regiment S. C. Vols.

Lieutenant Colonel C. E. Thorburn, C. S. Artillery.

Lieutenant Colonel W. B. Allison, 18th Regiment S. C. Vols.

Lieutenant Colonel John Richardson, 36th Regiment N. C. T.

Major Jno. W. Moore, 3d Battalion N. C. A.

Major Jno. D. Taylor, 35th Regiment N. C. T.

Captain R. Boyce, Light Battery S. C. Artillery.

Lieutenant E. Hale, Adjutant 56th Regiment N. C. T., Judge Advocate.

No other officers than those named can be assembled without manifest injury to the service.

By order of Lieutenant General LONGSTREET, Commanding Department Virginia and North Carolina.

JNO. W. FAIRFAX,
A. and I. General.

HEADQUARTERS DEPARTMENT VA. AND N. C.,
Petersburg, Va., March 23d, 1863.

[General Orders No. 26.]

Captain Graham, 56th Regiment N. C. Troops, will relieve Lieut.

Hale, Adjutant of same Regiment, as Judge Advocate of General Court Martial, convened by General Orders No. 24.

By command of Lieutenant General LONGSTREET.

G. M. SORREL,
A. A. General.

WILMINGTON, March 30th, 1863.

Court met pursuant to the foregoing order, and adjournment from the 28th instant.

PRESENT :

All the members of the Court except Lieut. Col. Thorburn, who has been excused.

The Court then proceeded to the trial of Col. F. W. McMaster, who was called before the Court, and having heard the order read, was asked if he had any objection to any member named in the order, to which he replied in the negative.

William E. Martin, Esq., of Charleston, was admitted as counsel to accused upon his application.

The accused was then arraigned upon the following charges and specifications preferred by Brig. Gen. N. G. Evans :

CHARGES AND SPECIFICATIONS PREFERRED AGAINST COL. F. W. M'MASTER, 17TH REGIMENT SOUTH CAROLINA VOLUNTEERS.

Charge 1.—Cowardice.

Specification.—In this, that he, Col. F. W. McMaster, 17th Regiment S. C. V., did shamefully leave his Regiment whilst engaged with the enemy, and ran until out of danger. This near Boonsboro, Md., on or about the 14th of September, 1862.

Charge 2.—Mutinous Conduct.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did attempt to incite a mutiny against his Commanding Officer, Brig. Gen. N. G. Evans, P. A. C. S., amongst the troops of Evans' Brigade, by visiting different officers of the Brigade and asking them to sign a paper to be relieved from the command of the Brigadier General commanding.

Specification 2.—In this, that he, Colonel F. W. McMaster, of the 17th Regiment S. C. V., did exercise himself among the officers and troops of the Brigade, to induce them to sign a paper, asking to

be relieved from the command of their Brigadier General, N. G. Evans, P. A. C. S., using false inducements, viz: that by signing said paper they would be ordered to South Carolina; all of which is mutinous conduct. This, in Camp, near Goldsboro, N. C., on or about the 19th of December, 1862.

Charge 3.—Violation of General Orders No. 96, and conduct highly prejudicial to good order and military discipline.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of Lieut. E. M. Neely and Private S. A. McElwee, Co. H., both of his Regiment, until sent for by his Brigade Commander, he, the said Col. McMaster, knowing them to have been absent for several days. This, near Halifax C. H., N. C., on or about the 14th of November, 1862.

Specification 2.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of Assistant Surgeon T. S. Waring, of his Regiment, when he knew that the said Waring had absented himself without leave from the proper authority. This, at Kinston, N. C., on or about the 20th of November, 1862.

Additional charges handed the accused on opening of the Court, March 30th, 1863:

Charge 4.—Conduct highly prejudicial to good order and military discipline.

Specification.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did visit Sergeant Kinloch and Private Seignious, Co. "A," 23d Regiment S. C. V., couriers for his Commanding General, and did attempt to incite them to insubordination by stating that Gen. N. G. Evans was a drunkard and a coward, or words to that effect. This, at Wilmington, N. C., on or about — day of February, 1863.

Charge 5.—Conduct unbecoming an officer and a gentleman.

Specification.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. Vols., did state to Sergeant Kinloch and Private Seignious, of the 23d Regiment S. C. Vols., that John Dunovant had sent word to Brig. Gen. N. G. Evans that he was a "coward and a drunkard;" all of which was false. This, at Wilmington, on or about 12th of February.

Charge 6.—Violation of 18th Article of War, and conduct highly to the prejudice of good order and military discipline.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of late Captain W. B. Metts, Commissary of his Regiment, and did further connive at and conceal the said absence from his Commanding General, Brig. Gen. N. G. Evans.

Specification 2.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. Vols., did tell late Captain Metts he might leave his Regiment until his resignation was accepted ; that he, Colonel McMaster, would conceal his absence from the Commanding General, Brig. Gen. N. G. Evans. All this, near Opequan River, Va., on or about the 20th of September, 1862.

To which charges and specifications the accused pleaded "Not Guilty."

GEN. N. G. EVANS—Witness for prosecution—sworn.

1st Charge.—*Question by Judge Advocate for prosecution.*—State what you know concerning the conduct of Col. F. W. McMaster at the battle of Boonsboro, Md., September 14th, 1862.

A. At the battle of Boonsboro, 14th September, 1862, in passing from the left of my Brigade to the right of it, then hotly engaged with the enemy, I saw Col. McMaster running from the enemy alone. On seeing me he attempted to hide himself behind a large rock ; thinking he was sick, and being anxious about my right, or the two other Brigades on my right, where I was going at the time ; this was about twenty minutes after we first engaged the enemy. On my return I saw him still in the same position, lying down on the ground ; his position was between three and four hundred yards from the fire of enemy, or three or four hundred yards in rear of Regiment then engaged with the enemy.

Q. How long did he remain in this position, and did he return voluntarily to his command ?

A. Don't know how long he remained in this position ; don't know whether he returned to his Regiment voluntarily or not ; don't think he did, as his Regiment broke soon after.

Q. Had any order been given to the Brigade or Col. McMaster's Regiment to retire ?

A. No order had been given by me for it (to retire to the Brigade), but it was ordered later in the evening.

Q. Did Col. McMaster attempt to rally his Regiment after it broke?

A. Did not see Col. McMaster make any attempt to rally his men; his Regiment had not broken at that time; he was lying down. I endeavored to rally some stragglers.

Q. Was the conduct of Col. McMaster on this occasion reported to any higher officer?

A. I had a conversation with a higher officer, in which I stated I thought Col. McMaster acted from cowardice; he stated there was no time now for Court Martials.

Q. Describe the ground, and what shelter was afforded Col. McMaster by the position which he had sought?

A. It was on the side of a mountain, and the summit was between him and his Regiment; there was a number of large rocks and some trees.

2d Charge.—Q. State what you know of any attempt on the part of Col. McMaster to excite an ill feeling against you among the officers of your Brigade?

(Paper marked "A" introduced and read before the Court, to French's endorsement.)

A. I know nothing personally, only from report of officers.

Q. What do you know of the paper before the Court marked "A," and of Col. McMaster's connection with it?

A. I received this signed by Col. McMaster as Senior Colonel; the Adjutant General brought the paper (under consideration) and delivered it to me officially.

Q. Do you know of other attempts on the part of Col. McMaster to leave your command?

A. Since the return of the paper before the Court, Col. McMaster has made an official application to the Secretary of War to be relieved from command; the paper was forwarded and I have heard nothing from it since.

3d Charge.—Q. State what you know of the failure of Col. McMaster to report the absence of Private McElwee about the 14th of November, 1862?

A. It was reported to me officially that Private McElwee had deserted. I sent for him and asked him how he came to be absent. (Objected to.) McElwee was not reported to my office by Col. McMaster as absent without leave.

Q. Do you know that Col. McMaster was cognizant of McElwee's absence?

A. Do not know that Col. McMaster was cognizant of McElwee's absence.

Q. State what you know of Col. McMaster's failure to report the absence of Dr. Waring?

A. On or about 20th November, 1862, I sent for Col. McMaster to my office; handed him a paper relative to the resignation of Assistant Surgeon T. S. Waring, concerning the medical certificate which was to be signed. McMaster then told me he did not know where he was, but said, at last, give me the papers, I know he is in Pineville, S. C.; he had been reported gone several days, or three days, and had not been reported to me. I published him as a deserter, as he had not been officially reported as absent without leave.

Q. Had you given any authority to Col. McMaster to furlough Dr. Waring or Private McElwee, or were there any orders then in force by which he could give such leave without your sanction?

A. No, sir; no, sir.

5th Charge.—Q. Have you ever received from John Dunovant a message that you were a drunkard and a coward? (Objected to by the accused; objection overruled.)

A. No, sir.

6th Charge.—Q. State what you know of the failure of Col. McMaster to report the absence of Capt. W. B. Metts, Commissary of said Regiment, about the 20th September, 1862?

A. On or about 20th September, on Opequan in Virginia, Capt. Metts absented himself from camp without permission; on finding his absence, I sent the Adjutant General to McMaster to explain it, as he had not reported it. I did not receive any explanation of his absence.

Questions by Accused.—Q. At what hour of the day did the battle of Boonsboro begin, and at about what hour did it terminate?

A. Commenced between 4 and 5 o'clock in the afternoon, and lasted some 1½ hours or near that; some of the Brigades fought until night, and mine did not.

Q. Describe the locality in which you found Col. McMaster particularly, and the character of the ground between where he was and where his Regiment, as you state, was engaged with the enemy?

A. On a hill side, rough, with trees and rocks, about the same ground as where his Regiment was engaged, only a ridge between.

Q. How many Brigades did you command that day, and how were they located in reference to each other? Who commanded your Brigade? Did he make a report, and have you a copy of it in your possession? Were they on the mountain or hill side?

A. Col. Stevens was in immediate command of my Brigade. I was in command of three Brigades, my own being on the extreme left. I have received no report of the battle of Boonsboro, except a mere nominal one, and it not at all special in its detail, being made up of reports of all the engagements during his command. The Brigade was on a side of a hill when the fight first commenced. Gen. Hood was ordered to form on the right with two Brigades, and mine was ordered on the left to support Rhodes, of Gen. D. H. Hill's Division; we marched in line of battle to his support. I have no copy of Col. Stevens' report, as I always forward them.

Q. Mention the names of the Brigades in your command at Boonsboro?

A. Texas Brigade (Gen. Hood's), Evans' Brigade, and the 3d Brigade, or Law's Brigade.

Q. Was not Hood's Brigade detached from your command, and what time?

A. It was not, separately, at no time.

Q. If not separately, then with any others; was it detached, and when?

A. It was detached at Sharpsburg after the engagement had commenced; it was relieved by two other Brigades.

Q. State the relative position of the Brigades to each other, and the distance from each other at battle of Boonsboro?

A. I am unable to state them; I have already stated they were in line of battle; the relative positions depended on the nature of the ground.

Q. Will the witness please state which Brigade was on the right, which in the centre, which on the left; also whether Hood's Brigade was on the right or left of the turnpike leading over South Mountain?

A. Evans' Brigade was on the left, the other two were under Gen. Hood, and alternated every day, sometimes left in front; don't know

how Hood marched his men. Hood's Brigades went on the right of the road, or were ordered to go there.

Q. Describe the relative position of the Regiments of your own Brigade in line of battle from right to left?

A. They were under the command of Col. Stevens; think Col. McMaster's Regiment was on the right; they were subject to the command of Col. Stevens, who was in command of the Brigade.

Q. What was the strength of your own Brigade, and of Col. McMaster's Regiment as they went into the battle of Boonsboro?

A. We had not received the reports for some time; do not make out reports but every ten days; had been on the march from Manassas; on the march not customary to make out reports; think the Brigade numbered some eleven hundred men; know nothing of the strength of Col. McMaster's Regiment; refer to the Adjutant General.

Q. Could you not form some opinion of the size of Col. McMaster's Regiment from seeing them while, as you said yesterday, ^{hotly} pressed by the enemy, with Col. McMaster three or four hundred yards in the rear?

A. No, sir, I could not. I presumed it was the whole Regiment; I came from the left to the right of the Brigade; I left Col. Stevens on the right, where I found Col. McMaster's Regiment engaged; was some hundred and fifty yards from the Regiment, and on the right of it, I saw Col. McMaster running.

Q. Did Col. McMaster's Regiment engage the enemy in one body, or was it divided in different parts while so engaged with the enemy?

A. I was not near enough to observe; it was in line of battle when I saw it; I was not near enough to distinguish it from other Regiments; if it was detached I am not able to state it.

Q. How far were you from Col. McMaster's Regiment at the nearest point during the Boonsboro fight, and what time of the fight?

A. I was within about fifty or one hundred yards at one time of it, over the hill; it was I presume with the other Regiments, when Col. Stevens formed line of battle, and I saw it come out some half hour after Col. McMaster had come out; I was at the nearest point to the Regiment (McMaster's) at about 5 o'clock, P. M.; it was just as we were going into action that I was nearest to it; first part of it think I was close up to it just before we went into action.

Q. Which wing of your Brigade began to retreat first?

A. The first retreating I knew was from the right, Col. McMaster's Regiment and some of the 22d; I then told the Adjutant General to tell Col. McMaster to rally his Regiment.

Q. How long after your return when you say you saw Col. McMaster behind a rock before your Brigade retreated? Did you see Col. McMaster afterwards, if so, describe the place?

A. When I returned from the right after I had first seen Col. McMaster, I found Lieut. Dean trying to rally some twenty men who did not seem inclined to stand; I then asked them to rally on me; Col. McMaster was then in his hiding place; ordered Adjutant General to order Col. McMaster to rally his men, then despatched him to Col. Stevens to order him to fall back, as the right had broken. Col. Stevens replied if he could get reinforcements he thought he could hold his position. Not receiving any, I retired with my whole Brigade. I saw him about fifty yards down the hill this side, the safe side, in a corner of a fence, where I and Lieut. Dean had been rallying the men; if I saw him afterwards I do not recollect.

Q. Have you or have you not expressed yourself to the effect that Col. McMaster was responsible for the charges brought against you about 1st January, 1863, by Col. Goodlett?

A. I decline answering the question; it is impertinent and insolent. (Ruled to answer.) I don't recollect at any date; I said so in his presence at Goldsboro; charged it before the Court; charges were preferred against McMaster before any charges were preferred against me.

Q. You say that charges against Col. McMaster were preferred before the charges against you; when did you forward them to your superior officer?

A. I forwarded them to, I don't recollect, Gen. French or Gen. Smith; I don't recollect the date; the charges against me were not preferred until some time in January; they were sent to me to be forwarded.

Q. What became of the charges against Col. McMaster which you forwarded to Gen. Smith or Gen. French, and did either of these officers make any endorsement therein?

A. I don't know what became of them; I presume they are the charges which are now before the Court.

Q. Were the charges against Col. Goodlett or Col. McMaster preferred first, and state the time?

A. Both charges were preferred at the same time; I drew them up at the same time; they were prepared some time in December; I consider the charges preferred when they are prepared; I am their commanding officer.

Q. Would you consider charges preferred before they are brought to the notice of the accused, no matter how long a commanding officer might retain them?

A. (Certainly I do.) It depends on circumstances; the interest of the service must be consulted; charges have been known to hang three years over an officer.

Q. Were there not amongst the charges preferred against you by Col. Goodlett, specifications for cowardice at Rappahannock, Manassas and Boonsboro?

A. I object to answer the question, (Court ruled that witness be not compelled to answer,) because secondary; the paper should be produced.

Q. Have you not regarded Col. McMaster as the cause of all the difficulty you have had in your Brigade, and so expressed yourself; if so, how often and to whom?

A. I don't consider him the cause of all the difficulties, but I know him to be a cause of a good many of them; making false reports, concealing deserters, &c.

Q. Have you or have you not stated that you intended to cashier Col. McMaster, and then you would have peace in your Brigade; if so, how often and to whom were these statements made?

A. Don't recollect of ever having made the remark.

Q. Have you or have you not declared that if Col. McMaster was concerned in bringing any more charges against you, you would put him in jail; and if so, to whom were these statements made?

A. Never thought of such a thing, or said so.

Q. When did you prefer the charges 4th, 5th and 6th, in reference to Capt. Metts; and the conversation with Seignious and Kinloch?

A. Soon as I found out the circumstances; about a month ago; soon as it was reported to me.

Q. Who was the higher officer with whom you had the conversation in reference to Col. McMaster's cowardice, and when did such conversation occur?

A. I have had conversation with several high officers, Gen. Longstreet, Lee, and others; I think I had this particular conversation after the Boonsboro fight, with Gen. Ripley.

Q. You were asked by the Judge Advocate yesterday if you had not received a message from Col. John Dunovant, that you were a drunkard and a coward, and you answered in the negative; did you not receive a message from Col. Dunovant that you were a liar, a coward and a braggart?

A. I never received any message from him.

Q. Where is the original of the charges preferred against you by Col. Goodlett?

A. I do not know.

Q. In whose possession was the paper when you last heard from it?

A. I don't know; it is impossible for me to answer it.

Q. Do you know whether the paper referred to is in the War Department; if not, state whether or not you know what has become of it, and whether it has been lost or destroyed?

A. I do not know where it is, or nothing about it.

Q. You spoke yesterday of Col. McMaster having sent a second application to the War Department for transfer from your Brigade; was it forwarded through you, and was it respectful in its tone?

A. It was, and it was respectful in its tone.

Re-examined by Judge Advocate.—Q. Was any person near Col. McMaster when he was running from his Regiment; did you see him make any attempt to rally his Regiment?

A. He was running alone; I saw him make no attempt to rally his Regiment; I saw him some time afterwards attempting to make some men fall in.

Q. Certain charges were preferred against you, and were you tried on them?

A. I was tried on part of them.

Question by the Court.—Q. Who was in your company at Boonsboro when you saw Col. McMaster running?

A. I was riding with no one; one of staff was wounded; two others sent off.

Q. When was Col. McMaster first placed in arrest by you?

A. I think it was some time in January, at Kinston, N. C.; after the battle of Goldsboro.

Q. Why was he not put in arrest sooner ?

A. Because I deemed it expedient to keep him in command of his Regiment ; I intended to arrest him in the first engagement.

Q. Are there any incidents or circumstances which make you positive you saw Col. McMaster at Boonsboro as described by you ; if so, state the circumstances or incidents ?

A. I saw him about twenty paces distant as plainly as I see him now, as he ran across my path and passed to my right.

Q. How did Col. McMaster act in the presence of the enemy at Manassas No. 2 ?

A. He was not mentioned for his gallantry ; I was not in command of the Brigade there, but in command of five Brigades, it being one of them.

Q. Did you ever speak to Col. McMaster of his conduct at Boonsboro ; if so, give the conversation ?

A. Not to my recollection have I spoken to him about it.

APRIL 1ST, 1863.

COL. W. H. WALLACE, 18th Regiment S. C. V.—Witness for prosecution—sworn.

2d Charge.—Question by Judge Advocate.—State what you know of Col. McMaster visiting officers of Gen. Evans' Brigade, and asking them to sign a paper to be relieved from his command ?

A. The paper referred to was about completed when I reached Goldsboro, N. C. ; Col. McMaster informed me that it was a petition to be transferred from Gen. Evans' command ; had been signed by a majority of the officers of four Regiments, and he had been asked to mention the matter to me.

Q. Were any reasons or inducements urged by Col. McMaster for signing the paper ?

A. I don't remember that any inducements were urged by Col. McMaster.

Q. Was there any conversation in relation to Gen. Evans ; if so, what was it ?

A. There was some conversation, but what it was I do not remember ; the interview was a hurried one.

Q. Had Col. McMaster in relation to this paper, while it was being circulated in the Brigade, any conversations with you or other officers

in your presence as to Gen. Evans' fitness to command; if so, state them?

A. My Regiment had been detached from the Brigade, and that paper was about finished when we rejoined it; I don't remember having any conversation with McMaster in relation to that paper that I have not already stated.

Cross-examination by Accused.—Q. Who constituted the first Board of Examination in Evans' Brigade before which you appeared when you were examined for promotion; state the time, and place, and by whom appointed?

A. That Board was composed of Col. Stevens, of the Holcombe Legion; Col. McMaster, of the 17th S. C. V., and Capt. Bancroft, of the 23d S. C. V. It held its sittings in Camp, near Winchester, Va., some time in the month of October last, (the Board was appointed according to my impression and belief by Gen. Evans.)

Q. Are you sure it was a Board for examining the officers of Evans' Brigade, and who then commanded the Brigade?

A. Yes, sir, it was a Board for examining the officers of Evans' Brigade, and Gen. Evans was at that time in command of his own Brigade.

Q. Do you not rank Col. McMaster?

A. I do.

Q. In how many battles or engagements have you been with Col. McMaster; mention names, and what was his command?

A. I have been in only two battles and one skirmish with Col. McMaster, viz: Manassas, Sharpsburg and Malvern Hill; McMaster was Lieut. Colonel under Col. J. H. Means; at Manassas he entered the battle with the same rank, and in the battle Col. Means was wounded and died; Col. McMaster commanded the Regiment at Sharpsburg.

Q. What was his bearing in these battles for gallantry and conduct; describe it particularly?

A. I don't remember to have seen Col. McMaster when his command was actually engaged with the enemy; I saw him going into the action on Friday evening previous to the main fight at Manassas on Saturday; his bearing on that occasion was as gallant as it could be under the circumstances.

Q. How long have you known Col. McMaster; state his reputation

in the army and out of it as an officer and a gentleman, and especially for courage?

A. I have known Col. McMaster ever since the fall of 1846; at home his character as a gentleman is high; in the Brigade, so far as I know, he has always been considered as a man of courage and a good officer; his character as a gentleman in the Brigade is high.

Q. When was the first time you ever heard Col. McMaster's conduct for courage at Boonsboro questioned, and by whom?

A. I have never heard Col. McMaster's conduct for courage questioned by any one, until I heard that charges had been preferred, and I heard of them about the latter part of December last.

Q. Referring to your conversation with Col. McMaster relative to signing the petition for transfer, please say at whose camp fire it occurred?

A. We had just left Col. McMaster's camp fire, and the conversation occurred between it and my Regiment.

APRIL 2D, 1863.

Cross and Re-examined by Judge Advocate.—Q. Are you sure that the order appointing Col. McMaster on the Board when you were examined for promotion was issued by Gen. Evans?

A. I never saw the order.

By Accused.—Q. The witness will please state what was Col. McMaster's conduct for gallantry in the affair at Rappahannock Station, which you have just added to your testimony of yesterday?

A. I did not see Col. McMaster during the engagement at Rappahannock Station.

DR. POPE, Assistant Surgeon, 18th S. C. V.—Witness for prosecution—sworn.

By Judge Advocate.—Q. Do you know that Assistant Surgeon T. S. Waring was absent from Gen. Evans' Brigade, on or about the 20th of September, 1862.

A. Yes, sir, I know he was absent.

Q. Do you know whether he had permission from Col. McMaster to leave?

A. I do not know whether he had or not.

Q. Have or have you not had any conversation with Col. McMaster in relation to Assistant Surgeon Waring's absence?

A. I do not recollect of any.

Q. Have or have you not an impression that you have had such conversation with Col. McMaster?

A. I have no such impression.

Q. Have or have you not heard Col. McMaster admit that Assistant Surgeon Waring was absent without Gen. Evans' leave?

A. I think I have.

Q. State exactly and particularly what Col. McMaster said; that what is your impression he said?

A. He may have mentioned in my presence that Dr. Waring was away or absent without leave. (Corrected to say, without McMaster's leave.)

Q. Did or did not Col. McMaster admit that Assistant Surgeon Waring had no permission from Gen. Evans?

A. I do not recollect.

Q. State your impression as to whether or not such an impression was produced by Col. McMaster?

A. My impression is so vague that I don't recollect anything about it.

Cross-examined by Accused.—Q. How long have you known Col. McMaster, and how was you and he employed when your acquaintance commenced?

A. I have known him about six or seven years; he was Librarian while I was a student at College.

Q. State how many battles you have been in with Col. McMaster, and what was his conduct?

A. I have never seen Col. McMaster in battle.

Q. What has been his reputation among the officers as to his conduct at Boonsboro?

A. I don't remember hearing them say any thing about that battle.

Q. What is Col. McMaster's reputation in and out of the army as an officer for courage, and as a gentleman?

A. As far as I know it is good.

SERGEANT KINLOCH, 23d Regiment, sworn.

Q. Had you or had you not any conversation with Col. McMaster as to Gen. Evans' character, on or about the 12th of February?

A. I met Col. McMaster at Bailey's Hotel while Gen. Evans' trial was going on at Goldsboro; Col. McMaster made a remark to Seig-

nious and myself that he knew a gentleman who had pronounced Gen. Evans a d—d liar and a d—d coward in the presence of Capt. Currie, and that gentleman was Col. Dunovant.

Q. What position does Capt. Currie occupy?

A. Special Aid to Gen. Evans.

Q. Will you state the whole of the conversation alluded to?

* A. I don't remember that any thing else was said.

Q. Have you heard Col. McMaster say any thing in relation to Col. Dunovant's having sent any message to Gen. Evans; if so, state the message?

A. No, sir, I did not hear him say that Col. Dunovant had sent any message to him, but that Capt. Currie knew it, and he thought the General would hear it through him.

PRIVATE SEIGNIOUS SWORN.

Q. Had you or had you not any conversation with Col. McMaster as to Gen. Evans' character?

A. No, sir.

Q. Were you not present at any conversation between Sergeant Kinloch and Col. McMaster about Gen. Evans?

A. No, sir.

Q. Have you heard Col. McMaster say any thing in relation to Col. Dunovant having sent a message to Gen. Evans, and what was it?

A. At Bailey's Hotel Sergeant Kinloch and myself were in a conversation about Gen. Evans' case; Col. McMaster hearing the conversation, made a remark saying that he knew a gentleman who said that Gen. Evans was a d—d liar and a d—d coward; the name of the gentleman was Col. Dunovant; this conversation took place since Evans' Brigade was in Wilmington.

LIEUT. J. R. MORSE, 17th Regiment, sworn.

Q. State all that you know in relation to Col. McMaster visiting officers of Gen. Evans' Brigade, and asking them to sign a paper to be relieved from Gen. Evans' command, and if you know of any inducements urged by him state them?

A. I know nothing in regard to the matter; I know nothing of his visiting officers; he never used any inducements with me, if he did with others I do not know.

Q. Were you ever summoned by Col. McMaster for a consultation upon the matter?

A. No, sir, I never was particularly.

Q. Were you ever requested by Col. McMaster directly or indirectly to meet him for consultation on the paper?

A. The Adjutant came to me and stated that the Colonel had a paper he wished me to sign and had sent for me; the Adjutant stated that the paper was a petition or something of that kind to be transferred from the Brigade, and then went to Col. McMaster, and he never presented the paper to me nor asked me to sign it, and said nothing about it.

Q. Did you see any paper circulated among the officers around the fire?

A. I did see a paper, but did not take it in my hand; I did not read it, and don't know what it contained; I remained but very few minutes at the fire.

Cross-examined by Accused.—Q. What State are you a citizen of?

A. I was born and raised in North Carolina, but volunteered in South Carolina; have been living in that State about ten years.

Q. Were you at the battle of Boonsboro, Md.; if so, state whether you saw Col. McMaster during the battle; how much of the time of the battle was he in your sight?

A. I was at the battle of Boonsboro; I saw Col. McMaster generally during the fight; he went in with us; I was placed on the left in an elevated position, and I frequently looked down the line to the right, and as frequently as I looked down I saw Col. McMaster; I saw him rallying his men, and urging them to fight; at the winding up of the fight, or when we were about to retire, he came up the line opposite our company, the balance of the Regiments were all gone on the right and on the left so far as I could see; no one fighting but one Regiment that I could see; Col. McMaster ordered us to retire in good order; to retire firing, which we did; we fell back perhaps some three hundred yards, and then we rallied the second time with a small number of men, Col. McMaster then being with us; we received orders then to fall back, which we did by a flank; every time I looked for Col. McMaster during the fight I saw him; I was in command of my company and was engaged with it at times; I believe and know Col. McMaster was at his post all the time.

Q. How much time ever elapsed during the battle that you did not have your eyes on Col. McMaster?

A. I don't know; I was watching part of the time for myself, and then the balance of the Regiment.

Q. Was he ever absent from his Regiment a half an hour during the battle, or ever three or four hundred yards in the rear?

A. I do not believe he was absent from his Regiment at all, neither do I believe he was ever one hundred yards from it; I never saw him that far away from it.

Q. What number did your Regiment have in the fight; when you retired how were you situated in relation to the enemy; were you much pressed, and how?

A. I suppose we had 140; I don't think it would exceed that; we were very much pressed when first commenced to retire; I suppose the enemy were in forty yards of us; they were flanking us on the right, and not over forty yards from our front; the enemy were advancing in three lines, and were outnumbering us; I can't say to what extent.

Q. What was Col. McMaster's deportment in the whole battle for courage and coolness?

A. He was perfectly cool; I saw no excitement about him.

Q. Name any other battles in which you have been engaged with Col. McMaster, and his conduct in all of them?

A. I was in the battle of Sharpsburg; the battle of Kinston; his conduct at Sharpsburg and Kinston was cool and patriotic; we fought them at Sharpsburg for a long time, but had to retire, and we retired fighting until we came to a house, and we fought there until we were nearly surrounded; he then gave orders for us to retire, and sent into the house to extend the order to those who were fighting inside to come out; I was with him (McMaster) part of the time; Col. McMaster's conduct was of the coolest and bravest kind; he was continually encouraging his men and giving orders.

Q. Did you see any thing of other Brigades of ours while you were in the house; describe what happened to them?

A. I saw two other Brigades on the right and on the left, they were driven back.

Q. What is Col. McMaster's reputation in the army and out of it, for bravery, and as a gentleman?

A. His reputation in his own Regiment is that he is brave to a fault ; exposes himself to danger unnecessarily in a fight, and as regards his reputation as a gentleman, I have never heard it doubted.

APRIL 3, 1863.

Mr. Robert Strange, of Wilmington, was admitted as counsel to the accused in place of Gen. Martin, who was compelled to leave.

Re-examination—By Judge Advocate.—Q. Are you sure that Col. McMaster was absent from his Regiment at no time during the fight at Boonsboro ?

A. I feel confident he was not ; under the circumstances I do not think he could have been absent without my knowing it.

Q. You said that no other Regiments were in sight at that battle when your Regiment retired ; do you know whether they had retreated or had been ordered to a position on the left ?

A. I think they had retreated ; I don't know whether by command or not.

Q. Do you know whether Col. McMaster retired under orders from a superior officer or not ?

A. I do not ; I did not see or hear him receive any orders.

Q. Did your Regiment unite with the Brigade at any time after retreating during the fight ?

A. It did not at any time during the fight.

Q. Do you know whether the other Regiments continued to fight after your Regiment retreated ?

A. I do not know that they did.

Re-examination closed by Judge Advocate.

MAJOR JAMES PAGAN, Brigade Commissary Evans' Brigade—Witness for prosecution—sworn.

By Judge Advocate.—Q. Do you or do you not know that the late Capt. Metts, A. C. C. S., absented himself from his Regiment ; if so, state time and circumstances of absence ?

A. Capt. Metts left the Regiment at the camp on the Opequan River, near Martinsburg, on this side of Potomac, I think it was the 23d or 24th September ; I had a business transaction with him on the 23d September.

Q. Do you or do you not know that Col. McMaster was aware at the time that Capt. Metts had absented himself ?

A. I do not know.

Q. Was Gen. Evans, the Brigade commander, made cognizant of said absence?

A. I do not know.

LIEUT. CHERRY, 17th S. C. V.—Witness for prosecution—sworn.

By Judge Advocate.—Q. State all you know of Col. McMaster's connection with a paper or petition to be relieved from Gen. Evans' Brigade?

A. I know but little about it; I was sent for to go up to the Colonel's quarters; that the Colonel wished to see me; when I arrived at his quarters the Colonel says, here is a petition that we have drawn up for the purpose of getting out from under Gen. Evans or his Brigade; there was no other conversation.

Q. Did Col. McMaster say anything in relation to wishing one officer from each Company to sign this paper?

A. I think he did say, I would like to have an officer from each Company.

Cross-examination by Accused.—Q. What battles have you been in with Col. McMaster, and what was his conduct for courage in those battles?

A. I have only been in one fight where muskets were used; that was at Kinston; I was in the shelling at Rappahannock, and some other skirmishes; I can say that at the battle of Kinston he did his duty as faithfully as a Colonel or any other commander could do, and I say the same in regard to all the other engagements; I noticed him at one time at Kinston when the Regiment was all lying down, that he was walking up and down the line, as cool apparently as he is at this moment.

Q. Was he under the enemy's fire at that time?

A. He was; it was in the hottest of the battle.

Q. What is his reputation amongst the officers of the army for courage in the battles in which he has been engaged?

A. As far as I know it could not be better than it is.

Q. What is his general reputation as an officer and a gentleman, in and out of the army?

A. Very good, so far as I know.

CAPT. E. R. MILLS, 17th Regiment S. C. V.—Witness for prosecution—sworn.

2d Charge.—By Judge Advocate.—Q. State all you know in relation to Col. McMaster's connection with the petition before the Court?

A. As I was in camp at Goldsboro, the Adjutant of the Regiment came to me and said the Colonel (McMaster) wished to see me; I went up to his fire; he was sitting there with a paper in his hand, which I think he stated had come from the 23d S. C. V.; I took the paper from him, read it, and looked at the signatures and then handed it back, and told him I could not sign it; he then remarked to the Adjutant that perhaps some of the Lieutenants would sign it.

Q. State anything you know in relation to Private McElwee's absence from your Regiment?

A. All that I know is that when I returned to my Regiment from on furlough about the 20th or 22d of November, he was absent, by whose leave or authority I don't know; he had been detached from my Company as wagoner for the Regimental Commissary, and I missed him only by not seeing him with the wagon; another man had been detailed from my Company to supply his place as wagoner.

Cross-examination by Accused.—Q. Did you report the absence of McElwee to Col. McMaster, and was he a member of your Company?

A. He is enlisted in my Company, but is on extra daily duty as a teamster; I have no recollection of having reported him.

Q. What battles have you been in with Col. McMaster, and what was his conduct in them as to courage?

A. I have not been near him but in one, Kinston; I consider that he acted with proper courage; in my opinion he exposed himself unnecessarily, or might have discharged his duty fully with less exposure.

Q. What instance do you refer to in which he so acted?

A. We were fighting behind a natural breastwork, and he was walking along the top of the embankment in front of his men, and I thought that he could discharge his duties as well in the rear of his men; this breastwork was enfiladed in part by the enemy; he stood in front of the line when he ordered us to cease firing.

Q. What is his reputation in his Regiment as an officer and a gentleman?

A. It is very good.

Re-examination by Judge Advocate.—Q. Do you not think that Col. McMaster's proper place in this instance was in the rear, and that he could have discharged his duties better there, and was or was he not aware that charges had been preferred against him on account of his conduct at Boonsboro?

A. I don't know that he could have discharged his duties any better in the rear than where he was; I have no knowledge that he knew that charges were preferred against him.

By Accused.—Q. Did you ever hear of any charges being preferred against Col. McMaster until after the petition of which you have spoken was handed in to Gen. Evans?

A. Not that I recollect of, sir.

CAPT. A. S. EVANS, A. A. G.—Witness for prosecution—sworn.

By Judge Advocate.—Q. State what you know of the failure of Col. F. W. McMaster to report the absence of Assistant Surgeon T. S. Waring of his Regiment.

A. All I know is a conversation Col. McMaster had with Gen. Evans in his office when I was present; that conversation occurred about the 23d or 24th November, am not certain as to date; in reply to a question of Gen. Evans to McMaster, he stated that Dr. Waring had gone to Goldsboro; Gen. Evans told me to write to Waring, and state to him that unless he returned to duty he would be published as a deserter; I carried that letter to Gen. Evans for his perusal, and Col. McMaster, who was present, said, give me the letter, I will send it to him at Pineville, as I intend writing to him, and will enclose it in my letter, or something to that effect; Gen. Evans, I think, asked Col. McMaster how he would get off; Col. McMaster replied there was some kind of free masonry among doctors; the absence of Dr. Waring was not reported until called for by Gen. Evans, and then McMaster was instructed to report it by Gen. Evans; he had neglected to report the absence until ordered to do so.

Question by Accused, allowed by the Court as a preliminary one. On what days were the tri-monthly reports of the strength of the Regiments made to you; was it not on the 8th, 18th and 28th of each month; was there not a regular report made to the General November 28th, and have you not it in your possession?

A. The reports were called for on the 7th, 17th and 28th ; there is a report in my office of November 28th, 1862.

Q. What time would be included in the report of the 28th ; would it not, or ought it not to include all absences for the ten days preceding ?

A. It should include those absences ; it is not usually done though, as they are usually consolidated at Regimental Headquarters.

The report for November 28th was produced, or a copy, accepted as correct by the witness.

By Judge Advocate.—Q. Have or have you not heard Col. McMaster say anything in relation to this absence which you have not stated ?

A. I do not recollect that I have.

Q. Did Col. McMaster in this conversation first related, state whether or not Dr. Waring had gone to Goldsboro with his permission ?

A. I don't recollect that he so stated.

Q. In what manner ought officers to be reported absent in these tri-monthly reports ?

A. They should be reported by name.

Q. Do you know anything in relation to W. B. Metts, late Captain and Commissary, being absent from his Regiment ?

A. I think it was somewhere between the 25th and 26th of September, or about that time ; I addressed a note to McMaster to inquire if Capt. Metts was absent, (by the direction of Gen. Evans) and if so, by whose authority ; Col. McMaster replied that he had given him permission to go to Winchester, which was some fifteen or sixteen miles from his camp on the Opequan River, and that he had left Winchester without his leave and had gone home ; this I think was the substance of the note ; I had a conversation with Col. McMaster at his camp of a like nature with the note.

Q. Have you or have you not had any conversation with Col. McMaster in relation to the absence of Capt. Metts, if so, state it ?

A. The conversation was to the effect that he had given Capt. Metts permission to go to Winchester, and that he had gone home ; there were repeated conversations about this matter, all to the same effect.

Q. Have you or have you not heard Col. McMaster make any other admissions in reference to this absence of Capt. Metts ?

A. I never have, sir ; it is the only conversation I ever had with him in relation to him.

Q. State anything you know in relation to Col. McMaster's connection with the paper before the Court?

A. About the 20th December, I think, the Adjutant of 17th Regiment handed me a paper from Col. McMaster, which I found to be a petition to be relieved from Gen. Evans' command, signed by himself and others; I had no conversation with Col. McMaster in relation to the paper that I remember.

Q. What is your position in the army?

A. I am Captain in the Adjutant General's Department or Gen. Evans' Staff.

Questions to ascertain whether paper offered is good in evidence.—Cross-examination by Accused.—Q. You stated that a tri-monthly report of the condition of the Regiment was made by Col. McMaster on the 7th or 8th of October, 1862; has that report been lost or destroyed?

A. I have no report from Col. McMaster of October 7th, but have one in my possession of October 9th, 1862; these reports have been made on the 9th, 19th and 29th, before November.

Q. Is the report of the 28th November, 1862, which has been offered in evidence, made upon one of the printed forms or blanks furnished by Adjutant and Inspector General's Office?

A. I would say not; these forms are not furnished from the Adjutant General's Office, are quite a different form called monthly return, in which absentees are accounted for on the back.

Q. Is not that report marked B, according to the form in which such reports were usually made up to that time?

A. I think it was; the reports from the 17th Regiment were usually made on blanks like these.

Q. You stated you were on Gen. Evans' Staff, are you related to Gen. Evans?

A. I am a brother of Gen. Evans.

DEFENCE.

CAPTAIN RAY—Witness for defence—sworn.

Question by Accused.—How many battles have you been in with Col. McMaster?

A. I have been in the shelling at Rappahannock and the battle of Manassas, No. 2.

Q. Were you at the battle of Manassas, No. 2 ; if so, describe particularly what was Col. McMaster's conduct on that occasion ?

A. At the battle of Manassas we went into the fight about 3 o'clock, and the Brigade was knocked to pieces, but the enemy driven back over a hill. When I got up with what men was left, I found Col. McMaster in advance of what few men was there, waving his sword and cheering them on ; the firing was so severe there he ordered the men to fall back. When he ordered them to fall back, I heard him call out, Is there no other field officer present ? The men fell back beyond a house (some 30 men) that was near by, and commenced forming line of battle there. While that line was forming I was shot down, and don't recollect anything more.

Q. Was any field officer of the Brigade present, as far as you could discover, at the time he cried out, Is there no other field officer present ?

A. No, sir, I did not see any.

Q. Were the 30 men, which you say he ordered to fall back, all that you could discover of the Brigade at that time ?

A. Yes, sir.

Q. What is Col. McMaster's reputation for courage in and out of the army ?

A. Good, as far as I have ever heard ; a brave man.

Q. Are you now in the army ; when did you resign, and why ? To what Regiment did you belong, and what was your position in the Regiment ?

A. No, sir, I resigned 9th Feb., because I received a wound at Manassas, whereby I was prevented from being able to discharge the duties of my office. I was Captain of a Company of the 17th Regiment, S. C. V

Cross-examination by Judge Advocate.—Q. How long had your Regiment been in the action you describe, before it broke ?

A. Not long.

Q. Do you know whether the fight was continued by any other Regiment of your Brigade ?

A. I do not.

CAPT. J. W. AVERY—Witness for accused—sworn.

Q. How many battles have you been in with Col. McMaster ? State particularly what was his conduct in all of them ?

A. Rappahannock, Manassas No. 2, Boonsboro, and portion of Sharpsburg and Kinston and Goldsboro. His conduct, in all of them, was not only of a very brave man, but a very cool man. He was present in every fight and engagement in which the Brigade has been engaged; has never been sick or absent. I saw him under fire in all those fights, cool, collected and composed; always at his post when his Brigade was in a fight, that is when I saw him.

Q. Will you describe particularly the time you left, at the battle of Manassas, the condition of the Brigade at the time, the relative force of the Brigade and enemy, and distance from each other?

A. I left the battle of Manassas late in the evening, directly after Maj. Whilden had been shot down, with the colors of his Regiment. This place was about 200 paces north of the Chinn house, the enemy about 100 yards distant. The Brigade was all mixed up here, no ranks or any thing of that kind; our Brigade was entirely disorganized. Our force, at the time I left, was some 30 or 40 men; the enemy 100 yards distant. We had driven off the first Yankee line, and a new one had just come up and commenced firing into us, at about 100 yards distance.

Q. What was the strength of the 17th Regiment, as it went into action, and the number killed and wounded?

A. I suppose about 250 men went into action, and at least 160 were killed and wounded.

Q. State, particularly, the conduct of Col. McMaster, in the battle of Boonsboro?

A. Col. McMaster went into the fight with his Regiment. After the firing commenced, from my position in line, I could not see him. When forced to fall back, I saw him, in his place, rallying the men. We fell back to the top of the mountain, about 200 yards, I suppose; then Col. McMaster proposed to me to make a stand. I told him I thought it was foolish to do so, as we only had 23 muskets or privates with guns. He was cool as could be, under the circumstances.

Q. After your Regiment was ordered back, at Boonsboro, was the fight continued by any of the Regiments of the Brigade?

A. No, sir, they all stopped before we did.

Q. How many muskets were in the Regiment, at Boonsboro, when it went into action, and the number of men killed and wounded?

A. I think we took in about 120 muskets. I think our loss was at

least 60, killed and wounded ; from the loss in my own Company, I know it must have been this.

Q. How far was it from the turnpike where Gen. Evans' Brigade turned off to the place where it engaged the enemy, and was there any Brigade between the turnpike and the right of Evans' Brigade?

A. I suppose it was near half a mile from the turnpike to where the fight commenced, and no Brigade between us and the road that I know of ; there was a Battery of Artillery on our right at some distance.

Q. When the Regiment retired, had or had not the enemy flanked it on the right?

A. Yes, sir, they had flanked us on the right

Q. Did you see Gen. Evans at any time during the fight?

A. No, sir.

Q. What is Col. McMaster's reputation among the officers of the army for courage in the different battles in which he has been engaged?

A. So far as I know it stands high ; I have heard a good many express their opinions in that way ; his reputation is high.

MONDAY MORNING, April 6.

Q. How long have you been acquainted with Col. McMaster, and what is his character in and out of the army as an officer and gentleman?

A. I have been acquainted with him fifteen years ; there is no one has a better character, either at home or in the army. •

Q. What was your position in line of battle at Boonsboro, and why was it you could not see Col. McMaster during the whole fight?

A. I commanded the two right companies, and a large pile of rocks on my left prevented me from seeing the position of Col. McMaster.

Q. How far was the first line of the enemy from the Regiment before it retreated?

A. On the right flank the enemy were nearly parallel to us ; in front about forty yards ; the left I could not see, but they were firing into us from our left.

Q. Was there a second line of battle formed by Col. Stevens who commanded the Brigade, and how far was it from the first line made before the fight began, and how far was this line from the brow of the mountain?

A. There was a second line which was about forty yards in front of the position where we were first placed ; I would say it was some two hundred or two hundred and twenty-five yards from the top of the mountain.

Q. What was the relative positions of the Regiments of the Brigade in line of battle at the fight ?

A. Holcombe Legion first on the right, this Regiment was deployed as skirmishers during the fight in front of the Brigade just before the fight commenced, that being deployed left, the 17th Regiment on the right, next it the 18th Regiment, next I think the 22d and the 23d Regiments S. C. V

Q. Who is the Colonel of the 22d Regiment, and how long has he been the Colonel ?

A. Goodlett ; I think he has been Colonel since the re-organization in May, 1862.

Q. When was the first time you heard of the charge of cowardice being preferred against Col. McMaster ?

A. I was at Col. McMaster's fire, at Camp Benbow, about the 1st of March ; he then received a copy of the charges from Adjutant General Melton, of Gen. Smith's Staff ; this was the first time I ever heard of the charge.

Cross-examination—By Judge Advocate.—Q. Was Rappahannock much of a fight ?

A. It was a considerable artillery fight ; severe bombardment ; we lost something over one hundred in the Brigade.

Q. Did you see Col. McMaster all the time during the different battles you have described ?

A. Not all the time, but I saw him in every one of them ; I always found him when I looked for him.

Q. Was not the severe loss of the Brigade at the battle of Manassas No. 2, owing to the great confusion into which it was thrown, as you have said ?

A. Somewhat owing to that cause, but mostly to following the enemy too closely and too far.

Q. Do you know much of the conduct of Col. McMaster at Boonsboro ?

A. I know that he went into the fight ; that in falling back he was with the men ordering them to retire in good order, and that he wished

to renew the fight on the top of the mountain when we had very few men, and there was no other Regiments to be seen on the right or left ; the enemy then at that time advancing on us in three lines.

Q. On what slope of the mountain, ours or that of the enemy, was Col. McMaster when you say he was concealed from your view by the rocks, and did the rocks afford him any protection from the fire of the enemy ?

A. It was about a Southeast side, or side next to Frederick City, the enemy and us were both on the same side ; Col. McMaster and all of us were on the side next the enemy ; as I did not see his position, it is impossible for me to say what protection the rocks may have afforded him.

Q. Could he have been absent during the fight as long as twenty minutes or half an hour without your knowledge ?

A. I should think he could hardly have retired from his position alone without being seen by me.

Q. Was there much order in the Regiment during the first falling back you described ?

A. There was not much order.

Q. How do you know the fight was not continued by the other Regiments in the Brigade after yours retreated at Boonsboro ?

A. Because there was no firing to our left ; none of any consequence ; only an occasional gun, after we had fallen back.

Q. Is it not possible the other Regiments had been ordered to a different position, and that your Regiment had retreated too far to hear the firing ?

A. No, sir.

Q. Are you positive no Brigades were on the right of that battery mentioned by you, and could you see this ground after you became engaged ?

A. I am not positive, sir ; I could not see the ground to the right of the battery after we were engaged.

Q. At which of the lines of battle, the first or second which you have described, was Col. McMaster concealed from your view ?

A. At the second or last line.

Q. Was your position a favorable one for seeing Gen. Evans, and may he not have been near you without you seeing him, and were you not engaged in such a manner as you would not see him ?

A. It is possible he may have been near; I did not see him; the ground was rocky and wooded.

Q. Describe particularly the difference in the ground upon which the first and second lines of battle were formed?

A. The first line was formed on the base slope of the mountain, the second line was formed where a ledge of rocks were, which would give a partial protection to the men.

Q. Was this second line further down the mountain, and did you see Col. McMaster at any time after that line was formed?

A. It was further down the mountain; I saw Col. McMaster going down and coming back.

Examined by the Court.—Q. Was there fighting at both the lines spoken of by you?

A. No, sir, only at the last.

Q. Did you ever hear, except through the charges, that Col. McMaster behaved badly at Boonsboro?

A. Never, sir.

SERGEANT WILSON, Co. I, 18th Regiment S. C. V.—Witness for defence—sworn.

Examined by Accused.—Q. Were you at the battle of Boonsboro; what was your rank there; describe the conduct of Col. McMaster in that battle as far as you saw it?

A. I was, sir; I was color bearer of the 18th S. C. V; we had gone in on the left of Col. McMaster's Regiment, after the Regiments on the left of us had fell back; while the 18th Regiment was falling back I saw Col. McMaster or the Colonel of the 17th Regiment in the rear of us; I suppose we had fell back some fifty yards when I saw Col. McMaster in the rear of us still rallying his men; he seemed to be very resolute, and had taken up a gun from one of his wounded men and shot; directly afterwards, say a minute, he directed them to fall back, firing.

Q. Which was the first Regiment of Gen. Evans' Brigade that retreated, and which was the last left upon the field?

A. I do not know whether it was the 23d or 22d that was first to retreat; the 18th followed one of them, and the 17th was the last that I saw that came out; the Legion, of course, was the first that came out, as it was sent out as skirmishers, and came out over the Brigade.

Cross-examination—By Judge Advocate.—Q. Do you know that Col. McMaster is the person whose conduct you describe?

A. Yes, sir, they all said so; I know he is the same man; I had no acquaintance with him at the time.

Q. Is your knowledge not based entirely upon the statements of others as to the identity of Col. McMaster?

A. No, sir, it is not.

Q. Do you say positively that the person now in Court is the person alluded to; and if so, do you state it entirely upon your recollection of him?

A. Yes, sir.

Q. How many men were in the 17th Regiment when it retreated, and do you know that those other Regiments (22d and 23d) were not ordered to some other position?

A. I do not know; I do not so state.

PRIVATE W T. BEVIS, Co. A, 18th Regiment S. C. V.—Witness for defence—sworn.

Question by Accused.—Were you at the battle of Boonsboro; describe the conduct of Col. McMaster in that battle as far as you saw it?

A. Yes, sir; we were all in line of battle, and he was on our right, and I think he went into the battle about as bravely as any man I saw; he commanded his Regiment in the retreat in the same manner; I thought he did his part; after we were compelled to retreat by the enemy after the left of the Brigade had retired, he and his Regiment or most of it still remained in advance of the 18th, and afterwards retired, firing.

Q. Which was the last Regiment upon the field as far as you saw, and was Col. McMaster with the Regiment?

A. Col. McMaster's Regiment was the last I saw upon the field, and he was with his Regiment when I saw it, which was about sundown, or getting a little dark.

Q. Were you acquainted with Col. McMaster previous to this battle?

A. I had no acquaintance with him more than I know him by sight; I have known him the last sixteen years.

Q. Do you know whether your Regiment was ordered to the left of the position it first occupied, and under whose orders did you retreat?

A. We only went a short distance in that direction ; we were compelled to retreat by a flank movement of the enemy.

LIEUT. J. McCORMICK, 18th Regiment S. C. V.—Sworn.

Q. How long have you known Col. McMaster, and what is his reputation among the officers of the army for courage ?

A. I have known him about twenty years ; his reputation for courage is as good as it could be, as far as I have heard.

Q. What is his general reputation in and out of the army as an officer and a gentleman ?

A. It is as good as it could be, I think.

By the Court.—Q Did you see the 17th Regiment after the battle of Boonsboro commenced, and how far was it to your right ?

A. I should judge it was some fifteen or twenty paces to our right.

Q. Describe the progress of the battle, and the time and manner of the retreat of the different Regiments as fully as you can ?

A. I don't remember much about the retreat of those Regiments, except the 18th ; I remember about the Regiment on our left retreating about the same time ours did ; I know the 18th was on our right.

LIEUT. WM. HORTON, 17th S. C. V.—For defence—sworn.

Q. Were you at the battle of Manassas No. 2, if so, describe Col. McMaster's conduct there ?

A. I was at the battle, and saw Col. McMaster there, as we advanced on the enemy, early in the evening. Our Col. Means was killed early in the engagement ; Col. McMaster then took command of the Regiment, and forwarded them on, until the enemy had fell back beyond the hill that we were advancing on. He led the Regiment into the fight, until there was only some 15 or 20 of the men to fight. After advancing to the top of the hill, we discovered a new line of the enemy advancing, about one hundred yards off.

Q. What was done by McMaster, when he discovered this new line of the enemy, 100 yards off ?

A. He enquired if there was no field officer present, and after that he gave orders to his command to retire to the brow of the hill and rally.

Q. Were you at the battle of Boonsboro, and did Col. McMaster remain with his Regiment during the fight ?

A. I was there at the battle of Boonsboro, and I saw Col. McMaster leading his men into the fight, and various times during the engagement, I saw Col. McMaster engaged at his duty, encouraging his men. I was with Col. McMaster when he gave the command to retire firing, and he was hotly pressed and unsupported by any other Regiment of the Brigade. Before we had reached the top of the mountain, Lieut. Col. Means fell severely wounded. Col. McMaster ordered myself and 3 other men to bear him off from the field, and we attempted to remove him, and he refused to be moved.

Q. Did you see any signs of the enemy's bullets on his, McMaster's, clothes, after the battle of Boonsboro?

A. His sword, and scabbard and belt, were struck by balls; there was also a ball hole through the skirt of his coat.

Q. Were you at the battle of Sharpsburg; did you see Col. McMaster receive any injuries there; what was it?

A. I was, he was struck by a ball on the hat, was first I saw, and by a piece of shell on the breast.

Q. What was Col. McMaster's conduct at the battle of Sharpsburg; was it that of a man of courage or not?

A. His conduct was that of a man of courage.

Cross-examination by Judge Advocate.—Q. Do you state that Col. McMaster was absent from his Regiment at no time during the fight at Boonsboro?

A. He was not absent at any time during the fight.

Q. How do you know; was he not in the rear; did you keep your eyes on him all the time?

A. He was not out of my sight long enough to be out of sight of the field at any time, at Boonsboro.

Q. Describe the position of the second line of battle, and your retreat from it?

A. The second line of battle and the last line was formed upon top of the hill, we went in very good order, as good order as any Regiment ever left a battle-field.

Q. How many men did you have in the Regiment at that time?

A. We had very few, about 20.

Re-examined by Accused.—Q. Where was the line of battle formed when you met the enemy, and the fight first took place?

A. We formed it on the hill, when we first went round it.

Q. How far from the top of the mountain did the fight take place?

A. Some 150 or 200 yards, I suppose.

Q. You spoke of a line of battle formed on the top of the mountain, was that after the Regiment first retreated, and after the fight?

A. It was after the Regiment first retired, that Col. McMaster had given orders to retire, and we had rallied on the top of the hill and gave them another fire.

APRIL 7th, 1863.

The Court met. Accused offered depositions of Col. P. F. Stevens, late Holcombe Legion.

Deposition of COL. P. F. STEVENS.

Questions by the Accused.—Q. How long were you in the army, and what was your command? What is your calling now?

A. I was Colonel of the Holcombe Legion, S. C. V., for eleven months. I commanded the Legion at the battle of Rappahannock; at the battles of 2d Manassas, Boonsboro and Sharpsburg, I was in command of Evans' Brigade. The Secretary of War accepted my resignation in October last. I am now a minister of the Gospel, in St. Stephen's Parish, South Carolina.

Q. Who commanded Evans' Brigade at the battle of Boonsboro, Sept. 14th, 1862?

A. I commanded Evans' Brigade, that day.

Q. Please state the position of the 17th Regiment, in that battle, and describe, particularly, the conduct of Col. McMaster and his command?

A. Being unable to reach the position to which I was ordered by Major Gen. D. H. Hill, and compelled to dispose my command to meet an attack upon me, I placed the 17th Regiment in position, near some rocks on the brow of a mountain, and on my right flank. By the time I had disposed of the remainder of the command, and returned to the right, I found Col. McMaster engaged with the enemy. Remaining near him some moments, I found him perfectly cool and self-possessed, and in perfect command of his men. I remember, distinctly, his cautioning his men in reference to the Holcombe Legion, which had been deployed in his front, as skirmishers. I have some recollection, too, of his commanding his men to fire lower, but of this I cannot now be positive. The bearing of Col. McMaster, and the bearing of his men, gave me

entire satisfaction at the time. My left becoming engaged, I felt perfectly confident, from what I had seen, that I could safely rely on the courage and discretion of Col. McMaster, and I therefore told him I must leave him to himself; that, if overpowered, he must retire firing, or some order to that effect. I then went to my left, which I found already in retreat, and my presence being so necessary at this point, and the nature of the position, also, conspiring to this effect, I did not again return to the right, nor did I see Col. McMaster until I met him, after dark, back on the turnpike, whither my command had been driven back. Upon meeting Col. McMaster, I expressed to him my satisfaction with himself and command, as I never entertained a doubt but that he had continued to discharge his duty in the same manner as he had done under my eye.

Q. What is Col. McMaster's reputation as to gallantry, as an officer; and his reputation as an officer and a gentleman, in the army and South Carolina?

A. As to Col. McMaster's reputation for gallantry and conduct, as an officer and gentleman, in the army and South Carolina, I never knew it impugned until these charges were brought to my notice. Col McMaster has always had my esteem, as an officer and a gentleman.

Q. What was Col. McMaster's conduct in the other battles, in which you and he were engaged?

A. I do not remember of Col. McMaster coming especially under my observation, except at the battle of Boonsboro.

CAPT. BRADY, of the Holcombe Legion, S. C. V.—Witness for defence—sworn.

Q. Did you see Col. McMaster after the Holcombe Legion was driven in, at Boonsboro; how was he engaged when you saw him?

A. He was rallying the troops on the top of the mountain.

Q. How long have you known Col. McMaster, and what is his reputation among the officers of the army for courage?

A. I have seen Col. McMaster before I came into the army. I merely knew him; his reputation is a brave man.

Q. Did you see anything of Gen. Evans during the fight at Boonsboro?

A. I did not, sir.

Cross-examined by Judge Advocate.—Q. Did you see anything of Col. Stevens during the fight, after you were driven back?

A. Yes, sir ; I did, sir.

Q. Is it not possible that the formation of the ground prevented you from seeing Gen. Evans, even though he should have been near you ?

A. If he had been there during the action, I should have seen him.

Q. Describe the formation of the ground, near the top of the mountain, or any particularities in it ?

A. We were on the side of the mountain ; it was a hill side, like all mountain sides, rocky, and with trees on it:

SURGEON RUSSELL, Holcombe Legion S. C. V.—For defence—sworn.

Q. Will you state whether you ordered Dr. Waring back to the hospital at Goldsboro about the latter part of November, 1862, and had you authority to give such an order ; what was your position in the army at that time ?

A. I did, sir ; I was then acting as Senior Surgeon of Evans' Brigade, by virtue of my commission ; I did have authority ; I did order him from the camp below Kinston at Col. McMaster's camp.

Cross-examination—By Judge Advocate.—Q. Was Dr. Waring sick, and was he ordered to the hospital for his health, and did you report this fact to Gen. Evans ?

A. He was ordered to the hospital because he was sick ; I don't know that I did ; it is not usual to report such things.

Q. Are you sure the Brigade Surgeon does not report officers who are on the sick list to the General commanding ?

A. I never did ; we report at the end of the month to the Chief Surgeon, all medical officers sick ; I mean by " Chief Surgeon," the Chief of the Department, Dr. Fessenden ; the Chief of that Department was at Kinston, N. C.

Q. Was not Dr. Fessenden the proper person to give Dr. Waring permission to leave ?

A. I do not think so, sir.

SERGEANT FRANK SHEALY, Holcombe Legion S. C. V.—For defence—sworn.

Q. Did you see Col. McMaster after the Holcombe Legion was driven in at Boonsboro ; how was he engaged when you saw him ; what was your rank at that time ?

A. I did ; the Legion was deployed as skirmishers and driven back ;

Col. McMaster's Regiment supported our Legion ; when I fell back I got right opposite Col. McMaster, some fifteen or twenty steps from him ; I was color bearer of the Holcombe Legion ; the Yankees then pressed on and we could not rally the Legion any more, and Col. McMaster's Regiment was then engaged with the enemy ; Col. McMaster was sitting down some ten or fifteen steps behind his Regiment when I first came up, cheering his men.

Q. What was Col. McMaster's conduct as to courage at the battle of Boonsboro ?

A. He acted as bravely as I ever saw a man during an engagement, rallying his men.

Q. Did you see anything of Gen. Evans during the fight at Boonsboro ?

A. No, sir, I did not.

Q. After you saw Col. McMaster, was he absent at any time from his command while the fight continued, and did you leave the field with Col. McMaster's Regiment ?

A. No, sir, he was not absent, we fell back together ; I went back with his Regiment.

Cross-examined—By Judge Advocate.—Q. With how many men of that Regiment did you go back ?

A. I do not know ; can hardly tell you ; I suppose from two to three hundred ; it looked so.

Q. Did Col. McMaster go back into the fight after retreating with that number ?

A. He fell back from our first position about two hundred yards, and rallied the men a second time.

Q. What became of his Regiment after that ?

A. It fell back to where it took its second position, and there was some firing there, and then I was ordered off by our Colonel ; the Regiment never came out from there until after dark.

Q. How then do you know that Col. McMaster was absent from his command at no time after this during the fight ?

A. I was with him all the time the engagement was going on, and could see him all the time, and when I left Col. McMaster's Regiment the fighting was over, as it was nearly dark.

Q. Are you sure Col. McMaster could not have been absent from his command a short time without your knowledge ?

A. To the best of my knowledge Col. McMaster was with his command until after dark or nearly dark, when I was ordered off to Boonsboro.

Q. Might not the formation of the ground have prevented you from seeing Gen. Evans, and are you positive he was not at the fight?

A. I am not positive he was not there during the engagement; I did not see him any where about; the ground was pretty rough; a good many rocks about all along the hill.

Q. Did you see anything of Lieut. Dean rallying any of the 22d Regiment any time during the fight?

A. I do not know Lieut. Dean.

Re-examined by Accused.—Q. How many men did Col. McMaster have with him at the second position on the top of the mountain just before he marched off the field?

A. I could not tell you the number; he had several men he had rallied up on the hill; some of his own men and some of the Holcombe Legion; I cannot tell the number.

LIEUT. KEARSE, 17th S. C. V.—For defence—sworn.

Q. Were you at the battle of Boonsboro with Col. McMaster; have you been in any other engagements with him; what Companies did you command?

A. I was, and commanded the 5th and 6th Companies at Boonsboro; I have been in no other battles with him.

Q. Describe his conduct during the battle of Boonsboro; did he remain with his command during the fight?

A. He remained with his command during the time I was with it, telling his men to keep cool, shoot slow and take good aim; after getting a good many men killed and wounded, he ordered his men to retire firing; after retiring some fifteen or twenty paces from the old line, he picked up a gun and fired at the enemy; after which time I was wounded, and ordered to the rear by the Colonel.

Q. Did you see anything of Gen. Evans during the fight at Boonsboro?

A. Not after we were engaged.

Q. When was the first time you heard of the charge of cowardice being preferred against Col. McMaster?

A. I never heard it until some time in January ; I was at home at that time.

Cross-examined—By Judge Advocate.—Q. * On what part of the mountain was you when you were wounded ?

A. I was on the side where we first engaged the enemy, the line of battle was formed on the top of a hill ; don't know how far from the top of the mountain.

Q. At which line of battle were you wounded, the one near the top of the hill or below it ?

A. The line below, after we had retreated some fifteen or twenty paces.

Q. How long did the fight continue after you were wounded ?

A. I don't know how long it continued after I was wounded ; I went back to the rear.

Q. Was there anything in the formation of the ground which might have prevented you from seeing Gen. Evans ?

A. I did not see him ; the ground was very unlevel and rough.

Re-examination—By Accused—Q. From what direction did the ball come by which you were wounded ?

A. From the left.

CAPT. E. A. CRAWFORD, 17th S. C. V.—For defence—sworn.

By Accused.—Q. How many battles have you been in with Col. McMaster ?

A. Manassas No. 2 ; Boonsboro, Sharpsburg, Kinston and Goldsboro

Q. What was his conduct in those different battles as to courage ?

A. His conduct was good ; he acted bravely in all those battles.

Q. What was his conduct at Sharpsburg ; describe it particularly ?

A. We were detached from the Brigade then ; Col. McMaster was in command of two Regiments then, the Holcombe Legion and his own Regiment ; we were out on picket, and on Wednesday were engaged, but not seriously until about 12 o'clock, and from that time pretty much all day ; the enemy flanked us, and Col McMaster ordered us to fall back to an orchard and rally again ; we fought the enemy at the orchard, I would say, about half an hour ; after we fought them there, we moved by a right flank to screen ourselves behind a rock house then we fought them a considerable time until a Brigade on our right

and one on our left had fallen back, and we fought them for some time afterwards; after the enemy had advanced on us and the Brigades had fallen back, Col. McMaster ordered the Regiments, some of his own and the other Regiment, to fall back.

Q. What was his conduct at Boonsboro; state all that you know about it?

A. His conduct there was as good as it could be; Col. McMaster went into the fight with us, and was all the time right with us; *all the time of the fight* we could hear his commands, and hear him encouraging his men; when we got in line of battle Col. Stevens came up to our Regiment, I suppose to give Col. McMaster instructions; he (Col. Stevens) was in command of the Brigade; his instructions were to hold the position as long as he could, and when forced back to retire to the top of the ridge; when Col. McMaster gave the order to fall back we were both flanked on the right and left, on the left I know, and I think on the right; we fell back firing, and McMaster was the last man of the officers to fall back to the top of the ridge; then we formed and ascertained our numbers, and found we had only thirty muskets; Col. McMaster wanted to fight them there again, but Capt. Avery, myself and other officers reasoned with him that it was impossible to accomplish anything; we were then moved by a right flank; we fell back to the foot of the mountain, formed there.

Q. Did Col. McMaster give any order to you or the officers as they fell back to the top of the ridge; what was it, and what caused him to remain behind?

A. At the time we were falling back some one said Major Means was wounded, and he started back in the direction where Major Means was, towards the right of our Regiment; the men were still firing and falling back, and he was encouraging the men; after we rallied on the ~~top~~ top of the mountain Col. McMaster was behind; he gave the officers an order to fall back to the top of the hill and rally the men there, while he moved to the right where Major Means was wounded.

Q. Was Col. McMaster absent from his command at any time during the fight at Boonsboro?

A. No, sir.

Q. Which was the last Regiment left upon the field at Boonsboro?

A. The 17th Regiment, Col. McMaster's.

Q. Did you see anything of Gen. Evans during the fight at Boonsboro?

A. No, sir; the last place I saw Gen. Evans was crossing a little bridge after we had passed through Boonsboro; I think he was talking to Gen. Lee; this I think was the last time I saw Gen. Evans until after night or about dark.

Q. When was the first time you heard of the charges of cowardice being preferred against Col. McMaster?

A. I can't tell the date, but think it was after the battles of Kinston and Goldsboro.

Q. What is Col. McMaster's reputation as a man of courage among the officers of the army?

A. It is good as any man in the army, at home or any where else.

Q. What is his reputation among the officers as to his conduct at Boonsboro?

A. Good; all confidence in him.

Q. What is his reputation in and out of the army as an officer and gentleman?

A. Good as an officer and a gentleman ever since I became acquainted with him.

Cross-examined—By Judge Advocate.—Q. Were you with Col. McMaster all the time in the different battles you describe?

A. Yes, sir, except at Kinston on Saturday, when I was detached under Col. Radcliffe.

Q. Are you sure it was Col. McMaster who gave the different orders in those battles which you have stated?

A. Yes, sir.

Q. Could he not have been absent a short time at Boonsboro without your notice?

A. No, sir, he was very near me all the time, just on my right.

Q. Do you know whether the other Regiments of your Brigade had ceased fighting or merely changed to a different position when your Regiment retreated?

A. I don't know, sir; the first thing I knew was that the enemy had flanked us on the left, and our men had ceased firing, or I could not hear them firing in that direction.

Q. What became of all your Regiment besides the thirty men you mentioned as rallying on the hill at Boonsboro?

A. We only took in some fifty or sixty, and we lost a good many killed and wounded; some were taken prisoners, and others don't know what became of them.

APRIL 8, 1863.

LIEUT. W. S. MOORE, 17th S. C. V.—For defence—sworn.

By Accused.—Q. How many battles have you been in with Col. McMaster; name them?

A. Rappahannock, Manassas No. 2, Boonsboro, Sharpsburg and Kinston.

Q. What was Col. McMaster's conduct for courage in all of these fights?

A. Good; he acted bravely and cool.

Q. What was Col. McMaster's conduct in the battle of Sharpsburg; describe it particularly?

A. He acted very brave and cool there; I recollect and noticed him particularly there going up and down the line of battle, and going to some of his men lying down, and calling upon them to shoot down the officers of the enemy; I noticed this several times, and remarked to Col. McMaster that he was exposing himself unnecessarily; the bullets were then flying like hail; we then fell back from that position one hundred and fifty or two hundred yards to an apple orchard, and fired from that position, I suppose half an hour, perhaps longer; I also noticed Col. McMaster go to a man who had an Enfield rifle, and point towards a Yankee officer and tell him to shoot him down; we were again driven back from the orchard one hundred or one hundred and fifty yards to a rock house, and went into it, Col. McMaster with us, who said to raise the windows to shoot through; he also told some of the men to go up stairs and knock off some of the roof of the house, and ordered some men to go up and fire from the roof; I went into the house as I was outside at times shooting, and told McMaster if we did not leave there we would all be taken prisoners; the enemy were then on the right and left of the house some one hundred yards distant; Col. McMaster then ordered his men out of the house and to fall back; this was about 2 or 3 o'clock in the evening.

Q. Did you see any sign of the enemy's bullets on Col. McMaster's clothes; did you see any man killed at his side in the orchard?

A. Yes, sir; after we left the rock house, I said to Col. McMaster, "your hat has been shot through in two places, also your coat sleeve;" I did see a man killed at his side; it was the one he told to shoot down the Yankee officer; this was one of the times I noticed him.

Q. What was Col. McMaster's conduct at the battle of Boonsboro; state all that you know about it?

A. He went into the battle with us ; our Company was on the right ; I did not see him during the battle ; there was a large rock that prevented me from seeing him ; the rock being very close to our left ; I could hear him talking, but did not see him ; I heard him say to his men to fire low, not to fire too soon ; when he gave the order to fall back, I then saw him passing by the rock ; he said to his men to retire in good order ; we fell back about two hundred yards, then Col. McMaster rallied the men again ; we fired a few times from that place, and McMaster said it was not possible to hold that position, and we fell still further back.

Q. Was Col. McMaster absent from his command at any time during the fight at Boonsboro ?

A. Not that I know of.

Q. Did you see anything of Gen. Evans during the battle of Boonsboro ?

A. I did not ; I saw him after we came out.

Q. When was the first time you heard of the charge of cowardice against Col. McMaster ?

A. I think it was some time in January.

Cross-examined—By Judge Advocate.—Q. Did the rock of which you spoke afford Col. McMaster any shelter from the fire of the enemy ?

A. No, sir, not at all.

Q. How do you know, as you could not see him ?

A. I could see along the sides of the rock, and could hear him talking at some distance from the rock ; I knew he was there.

Q. Are you positive that he could not have been absent for a short time during this fight ?

A. It might be possible.

Q. Were there any large rocks near your second position or the place to which you fell back ?

A. Yes, sir.

Q. How long altogether did you remain in this fight, and how many men did Col. McMaster bring out of it ?

A. I think we were in the fight probably an hour ; to the best of my knowledge some seventy or eighty men.

Q. Do you know whether any other Regiments of the Brigade continued to fight after your Regiment retired ?

A. They did not.

Q. Did you see all the other Regiments retreat?

A. No, sir.

ADJUTANT DUBOSE, Holcombe Legion—Sworn.

By Accused.—Q. How long have you been in the army, and what was your profession before you entered it; what was your rank at the battle of Boonsboro?

A. I entered the army in November, 1861; I was a student for the ministry and about to be ordained; I was Adjutant of the Holcombe Legion, but commanded it at that time.

Q. What was Col. McMaster's conduct at the battle of Boonsboro; state all that you know about it?

A. The Legion was deployed as skirmishers to cover the front of the Brigade; the skirmishers were driven back, and I retired to where the Brigade had been when I left it; I did not see the other Regiments at the time, but heard fighting on the right of the Brigade, and going there found it to be Col. McMaster's Regiment hotly engaged at that time; I went to the Regiment and saw Col. McMaster, and the Regiment; they were fighting, doing all they could be expected to do; I only stopped for a moment; saw Col. McMaster and afterwards saw Col. Stevens; when I went to him, I left Col. McMaster and his Regiment fighting, which was the last I saw of him in it, and they were further advanced at that time than any of the rest of the Brigade.

Q. When was the first time you heard of the charge of cowardice against Col. McMaster?

A. Several weeks ago I heard that such charges had been sent up against him; I think I heard it from himself.

Q. How long have you known Col. McMaster; what is his reputation for courage among the officers, and what his reputation as an officer and gentleman in and out of the army?

A. Almost as long as I can remember; I know him to be unexceptionable as a gentleman, and I have never heard but one suspicion as to his character as an officer, and that is contained in these charges; I would say his reputation is perfectly unexceptional in both respects.

JAMES W CONNER, Adjutant 17th Regiment S. C. V.—For defence—
sworn.

By Accused.—Q. How many Assistant Surgeons were there in the 17th Regiment S. C. V during the month of November, 1862?

A. There were two Assistant Surgeons and one Surgeon.

Q. In the tri-monthly reports has it been the custom in the army to report absentees by name?

A. No, sir, it has not; I have never been required to do it since I have been acting as Adjutant.

Q. By whom were the blanks or forms furnished upon which the tri-monthly reports of the 17th Regiment have been made; where did you get them from?

A. They were furnished by Capt. Evans, the Adjutant General.

Q. Upon the line of Field and Staff in the report marked B, there is one officer reported absent without leave; who does that refer to?

A. It refers to Dr. Waring, Assistant Surgeon of the Regiment.

Q. How long have you been a soldier, and how many battles have you been in with Col. McMaster, and what has been the conduct of Col. McMaster for courage in those battles?

A. I was a soldier eighteen months under Col. Butler in the Palmetto Regiment in Mexico; was in four battles there; I have been in four regular battles with Col. McMaster, and he has been as brave as a man could be; I would say brave to a fault, and I have been a close observer.

Q. Did Col. McMaster go into the fight with his Regiment, at Boonsboro, and did he remain with it until you left? When did you leave the fight?

A. He did. He did remain with the Regiment. I left the Regiment after it commenced falling back. I fell back in the rear of the Regiment. Col. McMaster fell back with it, and remained with it as long as I could see and hear, cheering the Regiment, ordering them to shoot low, perfectly calm, &c.

Q. How do you know Col. McMaster was with his Regiment in the fight; what was his conduct there? tell all you know about it.

A. In the first place, I know it by being with him all the time, until the Regiment fell back. After I fell back across the hill, went straight across it, I then went to the left until I got into the turnpike road, and there I found Col. McMaster with the Regiment. I was only separated from him a short time, and I was told by all the Commissioned Officers that he was present all the time; there were ten of them, two are now dead. I will say, that in all the battles that I have

been in, Col. McMaster is one of the coolest men I ever saw, under fire.

Q. How long have you been Adjutant of the 17th Regiment, S. C. V., and by whom were you appointed?

A. I have been Adjutant of the 17th Regiment since the 1st of May, 1862. I was appointed by Ex-Governor J. H. Means, then Col. of the Regiment.

Q. Did you see anything of Gen. Evans during the fight at Boonsboro, and when?

A. I saw him when I fell back across the mountain, in the rear of the Regiment, 350 yards in the rear of the mountain. The place where Gen. Evans was, to where the Brigade or the enemy was, was at least 550 or 600 yards; he was on the side of the mountain next to his friends, the mountain being between him and the enemy. Our force and the enemy on one side, and Gen. Evans on the other.

Q. Is Capt. Corrie still on Gen. Evans' Staff?

A. I think he is; am not certain.

Q. How near were you to Gen. Evans when you saw him, and what sort of a horse was he riding?

A. When I first saw Gen. Evans it was about 350 yards, but I continued to retreat until I struck a little flat, and then I remained a little while. I suppose it was about 200 yards from this place to where he was, he had a grey horse and was standing on the ground holding him by the reins, I think by the bit, the reins off the neck of the horse.

Cross-examined by Judge Advocate.—Q. Under what law were two Assistant Surgeons to one Regiment authorized, and did they both hold appointments from the C. S. Government?

A. The way it happened, the Surgeon was detached and left at Manassas, in charge of the wounded men; then the Assistant Surgeon was detached and left at Shepherdstown, and another was sent to us. Afterwards both got together again; one has since resigned, and the other is still with us.

Q. Have you, since acting as Adjutant, made out no returns in which absentees are accounted for by name?

A. I have not; no field return or monthly in that way, except once by special order.

Q. Was the absence of Assistant Surgeon Waring reported as absent without leave?

A. Yes, by the Colonel's order, as soon as he knew of it; he had been sent to Kinston sick.

Q. Could not Col. McMaster have been absent from his Regiment a short time, during the fight at Boonsboro, without your knowledge?

A. No, sir, he could not; impossible.

Q. How far did Col. McMaster retreat across the mountain, when, as you say, you saw Gen. Evans, at the time you came across and saw Gen. Evans as described?

A. He came to the top of the hill and fought the enemy there, when he rallied his men.

Q. Could not Gen. Evans, from the position he was in, have seen Col. McMaster on the top of the mountain, or if he had crossed it?

A. He could have seen him, if Col. McMaster was there, but at the time Col. McMaster was there Gen. Evans was gone.

Q. Were you not looking at Gen. Evans, and was not the top of the mountain behind you?

A. I was looking at Gen. Evans when I saw him, when I turned to look again he had gone, I did not know where he had gone to.

Q. How long were you absent from your Regiment at that time?

A. I suppose I was absent half an hour, until I got round to the road.

By the Court.—Q. What occasioned your absence of half an hour?

A. In retreating back to the rear, I went straight across the mountain and came out into the road; the Regiment bore a little too much to the left for me, and it was dangerous for me to rejoin the Regiment direct, as the enemy were flanking in all directions.

SERGEANT AMOS NUNNERY, 17th S. C. V.—Witness for defence—
sworn.

By Accused.—Q. State whether the paper marked is a correct copy of the tri-monthly report which was made of the 17th Regiment, S. C. V., on or about the 8th of October, 1862.

A. I believe it is, sir.

[By request of Judge Advocate paper withdrawn until next day.]

LIEUT. FERGUSON, 17th S. C. V.—Witness for defence—sworn.

Q. Where were you during the battle of Boonsboro, and did you see Col. McMaster at any time separated from his Regiment?

A. I was behind the Regiment, in its rear about one hundred yards, I suppose. I did not see Col. McMaster away from his Regiment.

Q. On which side of the mountain, at Boonsboro, were you ; on the same side where the Brigade was engaging the enemy, or on the other side ; *i. e.*, was the mountain between you ?

A. I was on the same side where the Brigade was.

Q. Did you see Col. McMaster during the engagement, and where was he ?

A. I did, he was with the Regiment.

Q. How long did Col. McMaster remain with his Regiment ?

A. He remained as long as I could see him. About 20 or 30 minutes after they commenced shooting, we began to take back the wounded. I was on the ambulance corps.

Q. Did you see Gen. Evans during the fight ?

A. No, sir ; I did not.

Cross-examined by Judge Advocate.—Q. Did you see Col. McMaster during the whole of the engagement, if not, for how long a time was he out of your sight ?

A. I did not. At different times I was back in the rear with the wounded. I suppose, in all, I did not see him for half an hour altogether.

Q. How long did the fight last ?

A. I suppose one-half hour or three-quarters, perhaps an hour.

APRIL 9th, 1863.

SERGEANT A. L. NUNNERY, 17th Regiment, S. C. V.—Witness for defence—sworn.

Q. Was there any Sergeant Major of the Regiment, on or about the 9th of October, 1863 ?

A. There was none in the Regiment at that time. We had none from the 28th of September until we came to this State, some time near the 12th of November.

Q. Were there two Assistant Surgeons in the Regiment about that time ?

A. There was, sir ; one present and one absent on detached service.

Q. What day did the Regiment leave the Opequan, and when did it encamp near Winchester ?

A. It left the 28th of September. We encamped about the 30th, near Winchester, and next day moved to the woods.

Q. Were you acting as Adjutant of the Regiment during the month of October, 1862? Was the Adjutant absent during that time?

A. I was so acting, and the Adjutant was absent.

J. H. CATHCART, Co. E, 17th Regiment, S. C. V.—Witness for defence—sworn.

Q. Did you see Gen. Evans during the fight at Boonsboro, and where did you see him, and how were you employed during the fight?

A. I saw him during the fight. I was on the ambulance corps, and about one hundred and fifty yards behind the Regiment. The fight had been going on about 10 minutes, and a wounded man came out, and I assisted him, and went with him about three hundred yards across a flat. I came to the brow of the mountain, and there I saw Gen. Evans and three other men with him, on horses. I went up to him and asked him where was his hospital; he told me “down in the road there.”

Q. At the place you saw Gen. Evans, could the Brigade be seen from there? What prevented its being seen?

A. No, sir, there was another hill or brow between it and the Brigade.

Q. How long did it take you to carry the wounded man from your place, in rear of the Regiment, to the place you spoke to Gen. Evans?

A. I think it was about ten minutes.

Cross-examined by Judge Advocate.—Q. How long did Gen. Evans remain at this place?

A. I don't know; I passed on by him to the hospital.

Q. Could Gen. Evans, from where he was, or by moving a short distance, have seen any one retreating from the Regiment, when they came to the top of the first hill nearest the Regiment?

A. No, sir, I don't think he could; there was a flat between the hill I was on, and the one the General was on; was some two hundred and fifty yards across. The Regiment was formed on the side below me, or on the opposite side.

PRIVATE JACKSON, Co. E, 17th S. C. V.—Witness for defence—sworn.

By Accused.—Q. Did you see Gen. Evans during the fight at Boonsboro, and when did you see him, and how were you employed during the fight?

A. Yes, sir, about the time it was ending, or a short while before it ended. I was taking off a wounded man, as I belonged to the ambulance corps. He was behind a cliff of rocks, on the opposite side of the mountain to where they were fighting, between five or six hundred yards in the rear of the Brigade, or Regiment, rather.

Q. Was there any person with Gen. Evans when you saw him?

A. No, sir.

Q. How long had the fight been going on before you assisted to carry off the wounded man?

A. It had been going on some 30 or 40 minutes, I don't recollect exactly what time it was.

Q. Do you belong to Captain Mills' Company; in December last, did he have any relations on Gen. Evans' Staff, and who are they?

A. I do. Captain Mills had a brother.

Cross-examined by Judge Advocate.—Q. How long a time did you see Gen. Evans, and did you see him again after the time you mentioned?

A. I did not see him again until the fight was over. It was not so long as ten minutes, nor don't know whether it was five minutes that I saw him. I saw him after I had taken the man to the hospital. I met him in the road.

CORPORAL MERRITT, Co. E, 17th Regiment, S. C. V.—Witness for defence—sworn.

Q. Did you see Gen. Evans during the fight at Boonsboro, and where did you see him, and how were you employed during the fight?

A. No, sir, I did not. I belong to the ambulance corps.

Q. Did you see Col. McMaster during the whole fight, at Boonsboro, and where was your position during the time?

A. I did see Col. McMaster during the whole fight. My position was about one hundred and fifty yards in the rear of the Regiment.

Cross-examined by Judge Advocate.—Q. Were you not busily employed in the duties of the ambulance corps; if so, are you positive Col. McMaster was not out of your sight during the fight?

A. No, sir. I never took off any person at all, but was in the rear of the Regiment. He was not out of my sight during the fight.

Q. Describe the different positions in which you saw him, and when you left the field.

A. I saw him right behind his Regiment when it was in line of battle, when it began to fall back he was behind his Regiment, cheering them, and keeping them together. I fell back with the Regiment. I staid until the Regiment fell back.

Q. Were there not a great many rocks on the ground, and could not Col. McMaster, for a short time, be hid from sight?

A. He would not be hid from my sight on account of rocks.

DR. DAVID LYLE, Co. A, 17th Regiment, S. C. V —Witness for defence—sworn.

Q. Did you see Gen. Evans during the fight at Boonsboro; where did you see him, at what time during the fight, and how were you employed?

A. I did. I saw him on the opposite side of the mountain, when our Brigade was in line of battle, I think about thirty minutes after the action had commenced. I was detailed, that evening, to act as Assistant Surgeon of the 17th Regiment.

Q. How far was Gen. Evans, when you saw him, from where the Brigade was fighting. Could he see the Brigade from there, and what prevented its being seen?

A. I suppose it was three hundred and fifty yards. He could not see his Brigade from where he was, for the ridge of the mountain was between him and his Brigade.

Q. Were there any large rocks near where he was; was he on foot or on horseback?

A. There were large rocks not far from where he was, and he was on horseback when I saw him.

Cross-examined by Judge Advocate.—Q. Did you see anything of Col. McMaster during this fight?

A. No, sir, not during the engagement.

Q. How long did Gen. Evans remain in the position you have described?

A. I don't know; I passed him with some wounded men, myself and some others.

Re-examined by Accused.—Q. Was your position such during the fight that you could have seen Col. McMaster if he was with his Regiment?

A. No, sir.

APRIL 10, 1863.

Deposition of WALTER B. METTS, late Commissary 17th Regiment S. C. V.—Witness for the prosecution.

Q. State under what circumstances you left the 17th Regiment S. C. V. about the 20th of September, 1862.

A. Having received letters from home stating that my wife was in a dying condition, I left the Regiment on 24th of September, 1862, having previously tendered my resignation as Commissary of 17th Regiment S. C. V., which was accepted on 30th of same month.

Q. Had or had you not permission from Brig. Gen. N. G. Evans, commanding Brigade, to leave, and for what length of time?

A. I had not permission from Brig. Gen. N. G. Evans to leave the Regiment.

Q. Had you or had you not any conversation with Col. F. W. McMaster, 17th Regiment S. C. V., as to leaving; if so, state that conversation?

A. I had a short conversation with Col. F. W. McMaster the day before leaving the Regiment, in which I informed him of my intention to leave the next day; he replied that he sympathized with me in my affliction, but that he had no power to grant me permission to leave, and that if I did so it would be at my own peril.

Q. Did or did not Col. F. W. McMaster tell you that he would conceal your absence from Brig. Gen. N. G. Evans, commanding General?

A. I answer most emphatically that he did not.

Q. Where was Gen. Evans' Brigade at the time you left it?

A. Gen. Evans' Brigade at the time I left was on the Opequan River, near Martinsburg, Virginia.

Q. Do or do you not know that Col. F. W. McMaster did conceal your absence from Brig. Gen. N. G. Evans, his commanding General?

A. I know that Col. McMaster did not conceal my absence from Gen. Evans; I in person before leaving the Regiment informed Gen. Evans of my intention to leave.

By Accused.—Q. What time did you leave the Brigade; was it not about the 25th September, 1862?

A. I refer to my answer to first direct interrogatory.

Q. Did not Col. McMaster tell you he had no power or authority to grant leave of absence, and if you went, it must be at your peril?

A. I answer he did.

Court adjourned until 13th instant.

COL. McMASTER'S DEFENCE.

MR. PRESIDENT AND GENTLEMEN :

You have for your consideration to-day an officer arraigned by his superior for cowardice, mutiny, and complicity with his subalterns in evading regulations made for the government of the army, a series of crimes which naturally follows from the least. The man who would be obnoxious to the charge of the greater crime, and who would desert the post of honor in the hour of danger, would secretly and feloniously foment mutiny in the camp, would seek popularity in shielding his men from punishment by concealing their delinquencies.

The charges are grave, and involve an amount of depravity that it is hoped is seldom witnessed in the tribunals of justice which determine them in the Confederate army.

It has been said that in the old United States Army the decisions of Courts were always on the side of power. The charges of subalterns against superiors were quashed, and of superiors against subalterns generally sustained. This may have resulted from its organization. The superiors were men who had the opportunities of education or position arising from friends and influence. The inferior was generally the child of fortune, who betook himself to the army because society afforded him no means of honest support. In the magnificent array of troops which now constitute the Confederate Army such a distinction no longer exists. The accidental position of many has elevated them to rank superior to numerous others who have greater qualifications of mind and heart. The military rank of the individual now is no criterion of his deserts; and although position with its dazzling paraphernalia may enlist the affections and make supple the knees of many; thank Heaven, despotism does not yet reign amongst us to such a degree, but there are men who can look beyond the gaudy trappings of power to the eternal principles of truth, justice and equity!

The second charge is mutinous conduct.

Specification 1.—That Col. McMaster did attempt to incite mutiny against his commanding officer, by visiting officers and asking them to sign a paper to be relieved from the command of Gen. Evans.

Specification 2.—Did exercise himself among the officers and troops of the Brigade to induce them to sign the paper, and use false induce-

ments; that in signing the paper they would be ordered to South Carolina.

It is true that three witnesses have testified that the accused had some conversation with them in relation to signing the paper which has been offered in evidence, but they all testify that he used no inducements of any sort for the purpose of prevailing upon them to sign it, much less any such inducements as are alleged in the second specification. There is no proof then to sustain this second specification; he did not exercise himself to induce them to sign the paper, and could not therefore have offered any false inducement. The allegation is not sustained by the proof, and the accused is entitled to an acquittal of the second specification.

The first specification is, that he endeavored to incite to mutiny by visiting the officers and asking them to sign the paper.

He did ask two of his officers to sign the paper, which it appears is a petition altogether respectful in its terms, addressed to the proper authority, asking to be transferred from Gen. Evans' command, signed by the officers who were in command of four Regiments, and thirty-four out of the thirty-nine Companies. But the allegation is, that he thereby endeavored to incite to mutiny; that he visited the officers and asked them to sign the petition with this intent. What evidence is there of any such evil intent on the part of the accused? This is the allegation, the evidence does not sustain it, it fails to show any such intent as alleged, and the accused therefore insists that he is entitled to an acquittal of this first specification.

But suppose the Court should come to the conclusion that the accused did visit the officers of the Brigade, and ask them, and indeed endeavored to induce them to sign the petition, and that without any proof of the intent with which the acts were done, he could be found guilty of the specifications, then the accused respectfully submits that the specifications do not sustain the charge. The allegation is that "he did attempt to incite a mutiny" by visiting the officers and asking them to sign a paper to be relieved from his command; can this possibly be construed to be mutinous conduct? The very nature of a petition is the recognition of authority and law; we, in this country, look upon it, not only as a great Anglo-Saxon privilege, but as a natural right of man. But the General, at the conclusion of the second specification, sagely remarks, "all of which is mutinous conduct."

Where did he get his learning? he may have the grimace, but he has none of the inspiration of the Sybil. Not content with having acquired the reputation of a hero, he now seeks the more enduring fame of an expounder of the law. He has forgotten that the followers of Mars are not necessarily the favorites of Minerva. The law is too jealous a mistress to be won by a *coup de main*. By what species of logic, admitting all the allegations to be true, will he make mutiny? Was there any spirit of insubordination or wild riot there? Were there any threats to hang the General, and refuse obedience to the law? Were not all his orders promptly obeyed? Mutiny, as the very term imports, is a resistance to lawful authority, but the act here alleged to have been committed by the accused, is asking others to appeal with him to lawful authority to be relieved with him from a command with which he and they were dissatisfied. Is this any offence at all? If each had petitioned separately, it clearly would have been but the exercise of an admitted right. Does its being a joint petition alter the case? If there is any offence at all here alleged, it can only be a combination to do a lawful act, and the offence, if offence there be, consists in combining to do that which if done by each officer separately would be but the exercise of an indisputable right, and might be held to be prejudicial to good order and military discipline. Whether this be so or not, it is unnecessary to inquire, for this is not the charge against the accused, and if the acts alleged do not amount to mutinous conduct, the accused cannot be acquitted of that offence, and found guilty of some other offence with which he is not charged; "for if the facts stated in the specifications would not if proved make up the charge, both charge and specifications are to be rejected, for the Court are to pass on the particular crime charged, and no other." *Judge Advocate's Vade Mecum*, page 251.

Charge third is violation of General Order No. 96, and conduct highly prejudicial to good order and military discipline.

Specification 1.—In this, that he failed to report the absence of Lieutenant E. M. Neely. There is no evidence that Lt. Neely was absent, and the Judge Advocate has abandoned this part of the specification. Further, that he failed to report the absence of Private S. A. McElwee, knowing him to have been absent for several days; this near Halifax Court House, on or about the 14th of November. There is but one witness upon this portion of the specification. Capt. Mills

testifies: "All that I know is, that when I returned to my Regiment, from on furlough, about the 20th or 22d of November, McElwee was absent, by whose leave or authority I don't know; he had been detailed from my Company as wagoner for the Regimental Commissary, and I missed him only by not seeing him with the wagon. McElwee enlisted in my Company, but was on extra daily duty, as a teamster. I have no recollection of ever having reported his absence to Col. McMaster." This is all the testimony. It does not appear when McElwee went away, nor when he returned; it only appears that he was absent on the 20th or 22d, when Capt. Mills returned. It does not appear where this absence occurred; the allegation is that it was at Halifax C. H., N. C. It must be proved, as alleged, or the prosecution fails. But it is further alleged, that Col. McMaster knew of his absence for several days. It does not appear that he was absent any number of days, and there is no evidence that the accused knew of his absence; on the contrary, the evidence is that the Captain of his Company did not report his absence to the accused. So thus the prosecution altogether fails as to this specification.

Specification 2.—That he failed to report the absence of Assistant Surgeon Waring, when he knew that the said Waring had absented himself without leave from the proper authority. This at Kinston, N. C., on or about 20th Nov., 1862.

It appears, from the evidence, that Assistant Surgeon Waring absented himself between the 20th and 24th of November. Capt. Evans, A. A. G., states that "about the 23d or 24th, in reply to a question of Gen. Evans, Col. McMaster said that Dr. Waring had gone to Goldsboro. Gen. Evans told me to write to Dr. Waring, so I brought the letter to Gen. Evans, and Col. McMaster said, give me the letter, I will send it to him at Pineville, as I intend writing to him. Gen. Evans asked, how would he get off? Col. McMaster replied, that there was a kind of free masonry among the Doctors." The absence of Dr. Waring was not reported until called for by Gen. Evans, and Col. McMaster instructed to report it, by Gen. Evans. This is the amount of the testimony for the prosecution, upon this specification.

It is not true, as alleged in the specification, that the accused failed to report his absence. There is no evidence to fix precisely the time when Assistant Surgeon Waring left. According to the testimony of Captain Evans, he was gone on or about the 24th or 25th of Novem-

ber, and that is all that is made to appear, as far as the time is concerned. Gen. Evans says, that it had been reported that he had been gone several days, or three days; not officially reported, of course these mere reports do not help to fix the time. The accused has a right to assume then that he left on the 25th, as it is not made to appear, by the testimony for the prosecution, that he left any sooner. The evidence shows that Gen. Evans, himself, knew at that time that he was gone, and had a conversation with the accused about his absence. Why then is it made a grave charge against the accused, that he failed to report the absence of Assistant Surgeon Waring to the Brigadier General, when the General knew that he was absent, and had a conversation with the accused upon the subject, about the time that absence occurred. But the accused did report his absence, officially. Gen. Evans has proved, when asked as to the strength of Col. McMaster's Regiment, at the battle of Boonsboro, that reports were required to be made every ten days; and Captain Evans proves that, from the 1st of November, they were made on the 8th, 18th, and 28th of the month. Now the absence occurred about the 24th or 25th, certainly there is no evidence that it did before the 18th. And in the monthly report, the paper marked B, of the strength and condition of his Regiment, he reports Assistant Surgeon Waring absent without leave. The report, in the column for Field and Staff, shows, present for duty, Colonel, Major, Adjutant, Commissary, Assistant Surgeon, Sergeant Major, Quarter Master Sergeant and Ordnance Sergeant, five officers and three non-commissioned officers, eight in all. Absent, Lieutenant Colonel, Quarter Master and Surgeon, three officers, who are reported absent on furlough, and one officer is reported absent without leave, which must be the other Assistant Surgeon, there being two Assistant Surgeons attached to the Regiment at that time, for every other officer is accounted for as being present for duty or absent on furlough. And even if the report was not sufficiently certain in itself, it is explained by the testimony of Adjutant Conner, the Adjutant of the Regiment, who proves that the one officer reported absent without leave, refers to Assistant Surgeon Waring, and that his absence was reported as soon as it was known. Captain Evans says, that in the tri-monthly reports absent officers ought to be reported by name, but yet he further testifies "that the report marked B, is according to the form in which such reports are usually made. The reports of the 17th Regiment were

usually made on blanks or forms like these." Now, not only had no objection been heretofore made to the form of these reports, but Adjutant Conner proves that these very blanks or forms were forwarded to the 17th Regiment by Captain Evans, A. A. G., and an examination of the forms or blanks will show that the absences could not be noted by name, for there is no room on the blank to do so. And the Adjutant of the Regiment testifies that he never had, in a tri-monthly report, noted the names of the absent officers, and he has been Adjutant since 1st of May, 1862, and no objection has ever been made to the report upon that account. The accused must be permitted, here, to say one word in explanation of the evidence of Gen. Evans, as to the conversation about the absence of Assistant Surgeon Waring. The General says that "the accused then told me that he did not know where he was, but said, at last, give me the paper, I know he is in Pineville," thereby insinuating that the accused had prevaricated about his absence. Capt. Evans, A. A. G.'s report of this same conversation, shows that Gen. Evans had forgotten the conversation, or had untruly reported it. Capt. Evans states that, "in reply to a question from Gen. Evans, the accused said he had gone to Goldsboro. By the direction of Gen. Evans, I wrote a letter to Assistant Surgeon Waring. I brought the letter to the General for his perusal. The accused then said, give me the letter, I will send it to him, to Pineville, as I intend writing to him. Gen. Evans then asked how would he get off, (of course referring to his getting off from Goldsboro, where the accused had already informed him that he had gone,) the accused replied that there was a kind of free masonry among Doctors." So that the accused did not know, and did not say that he had gone to Pineville, but that he had gone to Goldsboro, and as Assistant Surgeon Waring lived at Pineville, and was very ill, he felt assured that he would go home, and that he would manage and get off from the Hospital, at Goldsboro, for there was a kind of free masonry among Doctors.

The accused, then, did not fail to report the absence of Assistant Surgeon Waring, but, as the evidence shows, did report him, in his next tri-monthly report, which was but a few days after that absence occurred. But the testimony goes further than this, and establishes that Dr. Waring had not absented himself without leave from the proper authority. For Dr. Russell testifies that "I was acting as Se-

nior Surgeon of the Brigade, and about the latter part of November, I ordered Dr. Waring, from Col. McMaster's Camp, below Kinston, (he was then sick) to the Hospital at Goldsboro, and I had authority to give the order." And it is only from the testimony of Dr. Russell, that it appears that the absence of Assistant Surgeon Waring occurred at Kinston, the place alleged in the specification. The accused therefore submits that he is entitled to an acquittal of this specification. One single word as to the charge. As to the violation of the General Order, No. 96, that order was not published, at Richmond, until the 27th of November. The acts which are relied upon as a violation of the Order, are alleged to have occurred before that time, and therefore if the specifications were proved they could not sustain the charge.

The fourth charge is conduct highly prejudicial to good order and military discipline.

Specification.—That he did visit Sergeant Kinloch and Private Seignious, couriers for his commanding General, and did attempt to incite them to insubordination by stating that General Evans was a drunkard and a coward.

There is no evidence that the accused visited these persons named, but that he met them by accident at Bailey's Hotel, and they were talking about Gen. Evans' trial then going on at Goldsboro. There is no evidence that these persons were the couriers of the commanding General. There is no evidence of any attempt to incite them to insubordination. The accused did not state that Gen. Evans was a drunkard and a coward, nor words to that effect, but that Col. Dunovant had said that he was "*a liar and a coward.*" If this be any offence at all, and the accused submits it is not, the witnesses certainly do not sustain the specification, and the accused is entitled to an acquittal of this specification and charge.

Charge 5.—Conduct unbecoming an officer and a gentleman.

Specification.—That he did state to Sergeant Kinloch and Private Seignious that John Dunovant had sent word to Brig. Gen. Evans that he was a coward and a drunkard, all of which was false.

The evidence is that the accused stated that Col. Dunovant had said in the presence of Capt. Currie, that Gen. Evans was a liar and a coward, and that he thought Gen. Evans would hear it from him. It is in evidence that Capt. Currie was the Aid-de-Camp of Gen. Evans, so that the proof does not sustain the allegation, for the allegation is

that he said that Dunovant sent such a message, whereas the evidence is that he said that Dunovant had said so, not that he had sent such a message to him, and the variance is a material one; but the gist of this specification, as it is in support of a charge of conduct unbecoming an officer and a gentleman, is, that the statement which the accused made was false. What evidence is there to show that it was false? Gen. Evans says he never received such a message. The specification is, not that it was received by him, but that it was sent. The statement of the accused was not even that a message was sent, but that the words were spoken by Col. Dunovant. What then does the testimony of Gen. Evans amount to? There was a person by whom its falsehood could have been proved, if indeed the statement is false, and that is Capt. Currie, the Aid of Gen. Evans, for the statement is that the words were spoken in his presence. Why then make such a charge as this against the accused, and then fail to bring forward the witness who was upon his own Staff, and Gen. Evans knew what he would testify? Who could sustain the allegation here made, if it was susceptible of proof? Gen. Evans knew very well that if Capt. Currie had been examined he would have proved that Col. Dunovant did use those words, and he would thus have convicted himself of having preferred a false accusation against the accused. The accused has summoned Col. Dunovant to appear here, but he has been unable to procure his attendance, for the reason no doubt that the enemy have attacked, and are still threatening a further attack upon Charleston. It is true there was no necessity for his testimony, for the prosecution has altogether failed to establish his accusation, but the accused desired to have the statement of Col. Dunovant, who is a high-minded and honorable man, and has a thorough knowledge of Gen. Evans' character, and has no hesitation in avowing it. The accused submits that he is entitled to an acquittal of this specification and charge.

Charge 6.—Violation of the 18th Article of War, and conduct highly to the prejudice of good order and military discipline.

Specification 1.—Did fail to report the absence of late Capt. W. B. Metts, Commissary of his Regiment, and did further connive at and conceal his absence from his commanding General.

From the evidence it appears that Capt. Metts left the Regiment on the 24th of September. The next regular tri-monthly report would

have been made on the 29th of September, but at that time the Brigade was on the march, having left the Opequan River on the 28th for Winchester, and for that reason no report was made at that time. The next regular tri-monthly report was on the 9th October, which is the paper in evidence marked —, and in that report, in the column of Field and Staff, Capt. Metts, the Commissary, is reported absent.

There was at that time no Surgeon, Dr. Wylie having resigned since the last report, nor any Sergeant Major to the Regiment. There were two Assistant Surgeons. The report shows, of the Field and Staff, four officers present for duty, Colonel, Quartermaster, Assistant Surgeon and Quartermaster Sergeant; six reported absent, Lieut. Colonel, Major, Adjutant, Commissary, one Ordnance Sergeant, and one Assistant Surgeon, makes up the six, and accounts for the whole Field and Staff. But why this charge against the accused, when Capt. Evans proves that on the 25th or 26th, the very day after, or at farthest the second day after, he addressed a letter to the accused by the order of Gen. Evans, to inquire about the absence of Capt. Metts, and the accused informed him in reply that he had gone; so that Gen. Evans had the absence of Capt. Metts reported to him the very day after, or at farthest the second day after Capt. Metts left, and Capt. Metts in his deposition states that he himself, the day before he left, informed the General that he was going. The accused then did not fail to report the absence of Capt. Metts, nor did he connive at or conceal his absence from his commanding General.

Gen. Evans testifies that "on or about the 20th of September, on the Opequan River, Capt. Metts absented himself from camp without permission. On finding his absence, I sent the Adjutant General to Col. McMaster to explain it, as he had not reported it. I did not receive any explanation of his absence," which statement Capt. Evans, his brother and A. A. G., directly contradicts, for he says, "by the order of Gen. Evans on the 25th or 26th, I addressed a note to Col. McMaster, to inquire if Capt. Metts was absent. Col. McMaster replied that he had given him permission to go to Winchester, which was some fifteen or sixteen miles from his camp on the Opequan River, and that he had left Winchester without his leave and had gone home." How then can Gen. Evans say that he received from the accused no explanation of Capt. Metts' absence? So far then from the prosecution having established the allegation made in this specification, it has

proved exactly to the contrary; that the accused did *not* connive at or conceal the absence of Capt. Metts. The accused is therefore entitled to an acquittal of this specification.

Specification 2.—Did tell late Capt. Metts he might leave his Regiment until his resignation was accepted; that he would conceal his absence from the commanding General, Brig. Gen. N. G. Evans.

Capt. Evans states that, in reply to his letter, "that the accused said that he had given Capt. Metts permission to go to Winchester, and that he had left Winchester, without his leave, and gone home. This, I think, was the substance of the note, and I had conversation with him to the same effect." Now, suppose that the witness has here given the very words of the accused's reply to his letter, it does not sustain the allegation. It is not merely that he told Capt. Metts that he might leave and go to Winchester, but that he might leave his Regiment until his resignation was accepted, and that he would conceal his absence from the Commanding General.

But Capt. Evans is mistaken in his recollection of the reply which the accused made, and of the conversation to which he refers. Unfortunately the letter of the accused has been lost, and the witness is undertaking to state its contents. He does not speak very positively, "but this I think was the substance of the note, and I had conversation with him to the same effect." But, fortunately, the deposition of Capt. Metts has been taken and offered in evidence by the prosecution, and, in answer to the question, whether the accused gave him permission to leave the Regiment? he answers, "I say, most emphatically, no, he never did." Capt. Metts' deposition states, "I left on the 24th of Sept., hearing that my wife was in a dying condition, having previously tendered my resignation, which was accepted on the 30th. I had no permission from Gen. Evans to leave. I informed Col. McMaster that I intended to leave next day. He replied that he sympathized with me in my affliction, but that he had no power to give me leave of absence, that if I left it would be at my own peril. He did not give me leave of absence. I know that Col. McMaster did not conceal my absence from Gen. Evans. I, before leaving, informed Gen. Evans of my intention to leave."

And the absence of Capt. Metts, under these circumstances, is one of the charges which Gen. Evans has preferred against the accused, and handed to the accused, for the first time, on the morning that th is

trial commenced. And when he was asked when did he prefer this charge, together with charges fifth and sixth, he says "as soon as I found out the circumstances, about a month ago, soon as it was reported to me." And yet he proves that Captain Metts intended to leave the day before he left. Captain Metts told him so, and doubtless informed him of the cause of his leaving. He was informed of his absence the day after he left. He was made acquainted with the whole conduct of the accused in relation to the absence of Captain Metts, which has been brought forward by the evidence offered in this cause, within a very few days after Capt. Metts left the Regiment, as proved by his own witness, A. A. G.

The conduct of Gen. Evans, in relation to this accusation against the accused, paves the way to the consideration of his base, malignant and infamous charge against the accused, of misconduct before the enemy at the battle of Boonsboro.

At this battle of Boonsboro, the 17th Regiment, S. C. V., had its Colonel, Lieutenant Colonel, eight officers, and not more than one hundred and ten muskets. The other Regiments had none of their commanders present. The orders given by Col. Stevens, commanding the Brigade, was, if overpowered, to retire firing. The accused waited until *every Regiment* of the Brigade had broken and retreated, and the enemy, in overwhelming numbers, were flanking him right and left. Not, however, until sixty-three of his small band were killed and wounded, a number of which fell into the hands of the enemy, did he give orders, as directed; and, in fact, instead of preceding his Regiment, ordered his officers to halt the men on a hill, not three hundred yards in the rear, and remained for a few minutes endeavoring to remove his friend and comrade, Lt. Col. Means, who was badly wounded. The Colonel commanding complimented him for his good fighting; *his General*, to-day, seeks to stigmatize his character! But to the testimony.

Gen. Evans testifies: "At the battle of Boonsboro, 14th of Sept., 1862, in passing in from the left of my Brigade to the right of it, then hotly engaged with the enemy, I saw Col. McMaster running from the enemy, alone. On seeing me he attempted to hide himself behind a large rock. Thinking he was sick, and being anxious about my right, the other Brigades on my right, where I was going at the time. This was about 20 minutes after we first engaged the enemy. On my re-

turn I saw him still in the same position, lying down on the ground. His position was between three and four hundred yards from the fire of the enemy, or three or four hundred yards in rear of the Regiment, then engaged with the enemy. I don't know how long he remained in this position, don't know whether he returned to his Regiment voluntarily or not. I don't think he did, as his Regiment broke soon after. I did not see Col. McMaster make any attempt to rally his men. His Regiment had not broken at that time; he was lying down. I endeavored to rally some stragglers. The position which he had sought was on the side of the mountain, and the summit was between him and his regiment. There was a number of large rocks and some trees." This is his testimony upon his examination in chief. But the General is cross-examined; he is asked to describe, particularly, the locality where he found the accused, and the character of the ground between where he was and where his Regiment was. He answered, "that it was on a hill side, rough, with rocks and trees, about the same ground as where the Regiment was engaged, only a ridge between."

The General says, that "he commanded, at Boonsboro, a Texas Brigade (Gen. Hood's), Evans' Brigade and Law's Brigade." He further testifies, upon cross-examination, "I came from left to the right of the Brigade. I left Col. Stevens on the right, where I found Col. McMaster's Regiment engaged; was some one hundred and fifty yards from the Regiment, on the right of it, I saw Col. McMaster running. I was not near enough to observe whether Col. McMaster's Regiment engaged the enemy in one body, or was divided. It was in line of battle when I saw it. I was near enough to distinguish it from other Regiments. I was within about fifty or one hundred yards, at one time, of Col. McMaster's Regiment, over the hill. It was, I presume, with the other Regiments, when Col. Stevens formed line of battle; and I saw it come out some half hour after Col. McMaster came out. I was at the nearest point of the Regiment, at about 5 o'clock, P M. Just as we were going into action, I was nearest to it. The first retreating I knew, was from the right wing of my Brigade, Col. McMaster's Regiment, and some of the 22d, (Col. Goodlett's he had as well have said.) I then told the Adjutant General to tell Col. McMaster to rally his men. When I returned from the right, after I had first seen Col. McMaster, I found Lieutenant Dean trying to rally some twenty men, who did not seem inclined to stand. I then asked them to rally on me.

Col. McMaster was then in his hiding place. Ordered the Adjutant General to order Col. McMaster to rally his men, then despatched him to Col. Stevens, to order him to fall back, as the right had broken. Col. Stevens replied, that if he could get reinforcements, he thought he could hold his position. I retired with my whole Brigade. I saw him (Col. McMaster), about fifty yards down the hill, this side, the safe side, where I and Lieutenant Dean had been rallying the men. If I saw him afterwards, I do not recollect." In answer to a question by the Court, "I saw Col. McMaster, about twenty paces distant, as plainly as I see him now, as he ran across my path, and passed to the right."

This is the account of the battle of Boonsboro, and of the conduct of the accused, as sworn to by General Evans. Will the Court now turn to the testimony of Col. Stevens, who was, on that day, in immediate command of Evans' Brigade.

Deposition of COL. STEVENS, Boonsboro.

"I commanded, that day, Evans' Brigade. Unable to reach the position to which I was ordered by Maj. Gen. D. H. Hill, and compelled to dispose my command to meet an attack upon me, I placed the 17th Regiment in position, near some rocks, on the brow of a mountain, and on my right flank. By the time I had disposed of the remainder of the command, and returned to the right, I found Col. McMaster engaged with the enemy. Remaining near him some moments, I found him perfectly cool and self possessed, and in perfect command of his men. I remember, distinctly, his cautioning his men in reference to the Holcombe Legion, which had been deployed in his front, as skirmishers. I have some recollection of his commanding his men to fire lower, but of this I cannot now be positive. The bearing of Col. McMaster, and the bearing of his men, gave me entire satisfaction at the time. My left becoming engaged, I felt perfectly confident, from what I had seen, that I could safely rely on the courage and discretion of Col. McMaster, and I therefore told him I must leave him to himself; that if overpowered he must retire firing, or some order to that effect. I then went to my left, which I found already in retreat; and, my presence being so necessary at this point, and the nature of the position, also, conspiring to this effect, I did not again return to the right, nor did I see Col. McMaster until I met him, after dark, back on the turnpike, whither my command had been driven.

"Upon meeting Col. McMaster, I expressed to him my satisfaction with himself and command, as I never entertained a doubt but that he had continued to discharge his duty in the same manner as he had done under my eye.

"As to Col. McMaster's reputation for gallantry, conduct as an officer and gentleman in the army and South Carolina, I never knew it impugned until these charges were brought to my notice. Col. McMaster has always had my esteem as an officer and a gentleman."

These two accounts are *totally irreconcilable* to each other. Col. Stevens seems to have been acting under orders received directly from Gen. D. H. Hill, and does not speak of any orders at all from Gen. Evans, nor even of having seen him during the fight; he says "unable to reach the position to which I was ordered by Gen. D. H. Hill." Gen. Evans says that he despatched his Adjutant General to Col. Stevens to fall back, as the right had broken. Col. Stevens says that when he left the right he found the left already in retreat. How then could Gen. Evans, if he knew any thing about what was going on during the fight have sent such an order? Gen. Evans swears he came from the left to the right of the Brigade; he left Col. Stevens on the right; where he found Col. McMaster's Regiment engaged was some one hundred and fifty yards from the Regiment, and on the right of it; saw Col. McMaster running; he fixes then the time that he saw Col. McMaster running as being the same time that Col. Stevens was on the right of the Brigade. Col. Stevens swears, "I returned to the right; I found Col. McMaster engaged with the enemy; remaining near him some moments I found him perfectly cool and self-possessed; the bearing of Col. McMaster and the bearing of his men gave me entire satisfaction at the time; my left becoming engaged, I felt perfectly confident from what I had seen that I could safely rely on the courage and discretion of Col. McMaster; I then went to the left, which I found already in retreat."

And yet, during that very time when Col. Stevens bears testimony to the fact that the accused was with his command, cool, and self possessed, and faithfully discharging his duty, in the face of the enemy; giving orders and words of encouragement to his men, and by his bearing and conduct securing the entire confidence of his immediate commander; Gen. Evans swears that he was cowardly running away from the enemy, and skulking and hiding himself in a place of safety, some

three or four hundred yards distant. One or the other of these two accounts, so entirely inconsistent with each other, must be false. The testimony of Col. Stevens is that of a christian gentleman, and of one who is not a soldier by profession, although possessed of a military education, and for years at the head of the Military Academy of South Carolina; who, when this war began, laid aside the duties of his high calling, as a minister of God, and entered the army, where he served with honor and distinction, until the higher obligations, as he supposed, of his sacred office, forced him to resign, that he might again enter upon its duties. He has no interest in this prosecution, for or against the accused. He stands an impartial witness, with no inducements "to extenuate or set down aught in malice," but with the single object in view, to speak the truth, the whole truth, and nothing but the truth. Gen. Evans has all his feelings of bitter, unrelenting malignity against the accused to gratify; whom he believes to be the author of most of the troubles in his Brigade; who has presumed to prefer a petition, with others, to be released from his command; and whom he has declared to be the instigator of charges preferred against him, by Col. Goodlett, for drunkenness, cowardice, incompetency, and conduct unbecoming an officer and gentleman. On the first charge he has been acquitted. The other charges have not been adjudicated; and, if he is successful in his bold strategy, to cast a suspicion on the character of the accused, there will be no necessity to investigate the other charges against himself.

If the case rested here, the Court could not hesitate as to what their finding should be. But, not only is Gen. Evans contradicted by Col. Stevens, but by *every other witness*, fifteen in number, who have testified concerning the battle of Boonsboro, and the testimony can readily be increased; amongst these, every officer of the 17th Regiment, in that battle, except two, who have died from wounds, and Lieutenant Col. Means, who is absent on account of a severe wound received there. Gen. Evans swears, "that while the right of his Brigade was hotly engaged with the enemy, he saw the accused running from the enemy, alone, some three or four hundred yards, and attempted to hide himself behind some rocks." The only other witness for the prosecution, who was in the battle of Boonsboro, proves this to be false. Lieutenant Morse swears, "that Col. McMaster went into the fight with the Regiment; that he was on an elevated position on the left, where he

could see what transpired; he went in with us; I frequently looked down the line; I saw the Colonel rallying his men, and urging them to fight. When the first line of the enemy was in forty yards of us, he ordered us to retire in good order, and to retire firing. We fell back some three hundred yards, he with us; we afterwards retired by the flank. I feel confident that he was not absent from the command during the fight. He was perfectly cool. In his own Regiment his reputation is, that he is brave to a fault." Here, then, is one of the prosecutor's own witnesses, who was in the fight from the beginning to the end, who proves his statement to be untrue; who proves that the accused went into the fight with his Regiment, remained with them during the fight, and retired with them.

Captain Avery, of the 17th Regiment, S. C. V., testifies, "I know that Col. McMaster went into the fight at Boonsboro, with his Regiment. After the firing commenced, from my position in line, could not see him; that, in the falling back, he was with the men, rallying them, and ordering them to retire in good order. He wished to renew the fight, on the top of the mountain, when we had but 23 muskets, and there was no other Regiment to be seen on the right or left, the enemy, at the time, advancing on us in three lines. I do not believe he could have retired from his position during the fight, without being seen by me."

Sergeant Wilson, 18th S. C. V., color bearer, testifies, "that he saw Col. McMaster with his Regiment, when we (the 18th Regiment) had fallen back, rallying his men. He seemed to be very resolute. I heard him direct his men to fall back, firing."

Private W. T. Bevis, 18th Regiment, S. C. V., testifies, "that Col. McMaster went into the fight at Boonsboro, as brave as any man. He, with his Regiment, were the last upon the field, and the Regiment retired firing."

Lieut. Wm. Horton, 17th Regiment, S. C. V., testifies, "I saw Col. McMaster leading his men into the fight, and at various times during the fight; saw him engaged at his duty, encouraging his men. I was with him when he gave the command to retire firing. His sword and scabbard belt were struck by a ball, and there was a bullet hole through the skirt of his coat. He was not absent from his command during the fight."

Capt. Brady, Holcombe Legion, testifies, "I saw Col. McMaster at the battle of Boonsboro, after the Holcombe Legion was driven in, rallying his men. He was not absent, any time, after I saw him."

Sergeant Sheely, Holcombe Legion, testifies, "that Col. McMaster was at his post, when the Holcombe Legion was driven in. He was not absent from his command, at any time during the fight, after I first saw him. We fell back together. I went back with his Regiment. I was with him all the time the fighting was going on; could see him all the time, and when I left his Regiment the fighting was over. It was nearly dark."

Lieut. Kearse, 17th S. C. V., testifies that he (witness) "commanded the 5th and 6th Companies during the fight at Boonsboro; Col. McMaster remained with his Regiment during the time I saw him, encouraging his men; after a good many men had been killed and wounded, he ordered his men to retire firing; after which time I was wounded by a shot from the left, and ordered by the Colonel to the rear."

Capt. E. A. Crawford, 17th S. C. V., testifies that "Col. McMaster's conduct at the battle of Boonsboro was as good as it could be; he went into the fight with his Regiment, and was all the time right with us; all the time of the fight we could hear his commands, and hear him encouraging his men; when Col. McMaster gave the order to fall back we were flanked on the left, and I think on the right; we fell back firing, and the Colonel was the last man of the officers to fall back to the top of the ridge; he wanted to fight them there again, but Capt. Avery, myself and other officers reasoned with him that it was impossible for him to accomplish any thing; we then fell back to the foot of the mountain; Col. McMaster was not absent from his command at any time during the fight, and his Regiment was the last to leave the field."

Lieut. W. S. Moore, 17th S. C. V., testifies that "Col. McMaster went into the battle with the Regiment; I did not see him during the battle; there was a large rock which prevented me from seeing him; the rock being very close to our left; the rock did not afford him any shelter from the fire of the enemy; I could see on three sides of it; I could hear his orders, but could not see him; I heard him order his men to fire low; when he gave the order to fall back, I then saw him passing by the rock; he ordered his men to retire in good order; we

then fell back about two hundred yards ; then he rallied the men again ; we fired a few times from that place ; he then said it was not possible to hold that position, and we fell still further back ; it is possible, but I do not believe that Col. McMaster was absent at any time from his command during the fight."

Lieut. Dubose, Adjutant Holcombe Legion, testifies—"I commanded the Holcombe Legion that day ; they were deployed as skirmishers to cover the front of the Brigade ; the skirmishers were driven back, and I retired to where the Brigade had been when I left it ; I did not see the other Regiments at the time, but heard fighting on the right of the Brigade, and going there found it to be Col. McMaster's Regiment hotly engaged with the enemy ; I went to the Regiment and saw Col. McMaster, and the Regiment, they were fighting, doing all that they could be expected to do ; I only stopped for a moment ; saw Col. McMaster, and afterwards saw Col. Stevens when I went to him ; I left Col. McMaster and his Regiment fighting, which was the last I saw of him or it, and they were further advanced at that time than any of the Regiments of the Brigade."

Lieut. James W. Conner, Adjutant 17th S. C. V., testifies—"I was a soldier in the Mexican war ; was in four battles there in the Palmetto Regiment under Col. Butler, and I have been in four battles under Col. McMaster ; he went into the fight at Boonsboro with his Regiment, and remained with it all the time that I saw them ; I left the Regiment when it commenced falling back ; Col. McMaster fell back with his Regiment, and remained with it as long as I could see and hear him, giving his orders and cheering his men, perfectly cool and collected ; I will say that in all the battles I have ever been in, Col. McMaster is one of the coolest men I ever saw under fire, and I have been a close observer."

Thus it appears, from the testimony of every witness, who was in a position to see what transpired during the fight at Boonsboro, that the accused went into the battle with his Regiment, which was further advanced than any other Regiment of the Brigade, and was the last to leave the field ; that he remained with it during the whole time it was engaged with the enemy, giving his orders and encouraging his men ; and, when overpowered by numbers it was forced to fall back, he retired with his Regiment, being the last man of the officers to retire, and was never, at any time during the battle, separated from his command.

What becomes, then, of the testimony of Gen. Evans, when opposed by this mass of evidence, which establishes, beyond all controversy, the utter untruthfulness of his statement.

Gen. Evans swears, "that the first retreating I knew, was from the right wing of my Brigade, Col. McMaster's Regiment and some of the 22d." Now the evidence is, "that the 22d was not on the right, but that the 22d and 23d formed the left wing of the Brigade, the 17th and 18th forming the right wing." Now the malignity of the prosecutor manifests itself here. Who is the Colonel of the 22d? Why the evidence is, that it is commanded by Col. Goodlett, who, it appears from the testimony, some time since preferred charges against the prosecutor, Gen. Evans, and therefore he seeks to *throw the odium* of the retreat of his Brigade at Boonsboro, upon the Regiments of Col. Goodlett and the accused; whereas, the testimony of Col. Stevens, and every witness who has spoken upon this point at all, proves most conclusively, that it was the left wing that first gave way, and that the 17th Regiment was the *last* upon the field.

Gen. Evans says, "that a half hour after he saw Col. McMaster come out of the fight, his Regiment came out." Yet every other witness who was in the fight, and who retired with the Regiment, testifies, that the accused came out with his Regiment, and was at no time separated from it.

Gen. Evans says, "when I returned from the right, I found Lieut. Dean trying to rally some twenty men who did not seem inclined to stand; Col. McMaster was then in his hiding place; I ordered the Adjutant General to order Col. McMaster to rally his men." If this was true, is it not very strange that the Adjutant General has not spoken of it at all? he has been examined as a witness for the prosecution. Did he receive any order from Gen. Evans to order Col. McMaster to rally his men? Did he deliver any such order to the accused? Did he find the accused in his hiding place? If so, would it not have been brought out on his examination? But, like the balance of the testimony of Gen. Evans, it has been disproved by all the other evidence in this cause. But not only is the testimony of Gen. Evans in direct conflict with the testimony of any other witness who has given any account of the battle of Boonsboro, but it is inconsistent with itself. It abounds in contradictions and inconsistencies. The General says that he was in command that day of three Brigades,

his own being on the left; that he was going from the left to the right to look after the two other Brigades, when he saw the accused running away; and yet when asked as to the relative position of these two Brigades, he cannot answer. They were under Gen. Hood, and alternate every day, sometimes left in front; don't know how Hood marched his Brigade. He is asked whether these two Brigades were on the right or left of the turnpike road, which it seems was a half mile from the right of his own Brigade, down a mountain. He answers Hood's Brigades were on the right of the turnpike, at least they were ordered to go there. Don't he know whether they were there or not? Where did the General go to when he passed from left to right to look after those two Brigades about which he was so much concerned that he could not stop for a moment to drive back a Colonel of his own Brigade who was cowardly running away, and deserting his command while it was hotly engaged with the enemy? Did the General never find these Brigades, that he cannot even tell on which side of the turnpike they were posted? It has been proved that there was no Brigade between the right of Evans' Brigade and the turnpike, which was at least a half a mile off. The General did not know where Hood's Brigades were placed—they *were ordered* on the right of the turnpike. He does not say by whom. Gen. Hood was probably ordered by Gen. Hill, and the probability is that Gen. Evans did not command these Brigades during the battle, and moreover that he never did go to the right to look after them, as he testifies to.

The General says, "the first retreating I knew was from the right, Col. McMaster's Regiment and the 22d;" yet, when asked whether Col. McMaster's Regiment engaged the enemy in one body, or was divided, he says, "I was not near enough to observe; I was not near enough to distinguish it from any other Regiment." How then does he know that the Regiments of Col. McMaster and the 22d (Col. Goodlett's), were the first to retreat.

Gen. Evans says, that "when I saw Col. McMaster running from the enemy, and three or four hundred yards in rear, his Regiment was then engaged with the enemy." Yet, when he is asked how far he was from the Regiment of the accused, at the nearest point, during the fight, he says, "I was about fifty or one hundred yards of it, over the hill. It was, I presume, with the other Regiments when Col. Stevens formed line of battle." And when asked what were the relative posi-

tions of the Regiments in the Brigade, does not know, thinks Col. McMaster was on the right. How then, does he undertake to swear that at the time when he says the accused was running away, that his Regiment was then engaged, when he does not even know where the Regiment was, but presumes that it was over the hill, and does not even know whether it was on the right or left of the Brigade.

Gen. Evans says, "I was not near enough to tell Col. McMaster's Regiment from any other; was some one hundred and fifty yards from the Regiment, and on the right of it; I saw Col. McMaster running. On seeing me, he attempted to hide himself behind a rock. His position was some three or four hundred yards in the rear of his Regiment." And yet, when asked by the Court if there was any incident or circumstance to make him certain it was Col. McMaster, he states that "I saw him about twenty paces distant, as plainly as I see him now, as he ran across my path and passed to my right." He was then going to visit the rest of his command. Now had any man attempted to go to the turnpike, only one hundred and fifty yards behind the Regiment, and parallel to it, he would have been shot by the enemy, for they flanked the Regiment on the right, at the beginning of the fight, and the only chance of retreat was to the rear.

But, not only is the testimony of Gen. Evans contradicted by all the other evidence in the case, and inconsistent with itself, but all the witnesses who saw him at all, during the battle of Boonsboro (unfortunately for the General), locate him where it was impossible for him to have seen what he has testified to, even if it had ever occurred.

J. H. Cathcart, Company C, 17th Regiment, S. C. V., was one of the ambulance corps that day, and was about one hundred and fifty yards to the rear of the Regiment. When the fight had been going on about ten minutes, a wounded man came out, and he assisted him about three hundred yards to the rear, across a flat and to the brow of the mountain, and there he saw Gen. Evans. It took him about ten minutes to carry the wounded man to the place where he spoke with Gen. Evans. Gen. Evans could not see the Brigade from where he was; there was another hill or brow, between him and it.

This witness then locates Gen. Evans, about twenty minutes after the fight commenced, about four hundred and fifty yards in the rear of the Brigade, in a position in which he could not see the Brigade at all, and this is precisely the time when Gen. Evans says he was passing to

the right of his Brigade, about one hundred and fifty yards from it, when he saw the Regiment of the accused engaged with the enemy, and the accused running away.

Dr. David Lyle, Co. H, 17th S. C. V.—Was acting as Assistant Surgeon of the Regiment; about thirty minutes after the fight commenced he passed by Gen. Evans with some wounded men, Gen. Evans was about three hundred and fifty yards in the rear of the Brigade, and he could not see it from where he was, a ridge of the mountain was between.

Private Jackson, Co. C, 17th S. C. V —Was one of the ambulance corps that day; about the time the fight was ending or a short time before, he was taking off a wounded man, the fight had been going on between thirty and forty minutes, he saw Gen. Evans between five or six hundred yards in rear of Brigade or rather Regiment; he was behind a cliff of rock on the opposite side of the mountain from where they were fighting.

Lieut. Conner, Adjutant 17th, S. C. V —Saw Gen. Evans at the close of the fight, after the 17th Regiment had fallen back; he was at least five hundred and fifty or six hundred yards from the Brigade, the mountain being between him and the enemy, the enemy and the Brigade on one side, Gen Evans on the other.

Thus every witness who saw Gen. Evans during the fight, and at different times, locates him in about the same position, with the mountain between him and the enemy, and that where it was impossible for him to have seen what he testifies to.

But the testimony of Gen. Evans is entirely unsupported by any other witness, and is therefore utterly unreliable. Could it be possible for such a flagrant, palpable act of cowardice to be committed by a Colonel of a Regiment upon the right of a Brigade, deserting his command while it was engaging the enemy, running away three or four hundred yards, concealing himself in his hiding place for the space of half an hour to the General's certain knowledge, and yet not be seen by a single officer or man in that whole Brigade, except Gen. Evans? This alone, if there was nothing else in the cause, would prove this statement *to be false*.

The character which the accused has proved by the witnesses for the prosecution as well as for the defence, disproves the statement of the prosecutor. The accused must beg the Court to refer to that testimony.

it is distasteful to him to be forced to speak of himself, but this base, malignant and groundless accusation has placed him in a position in which, in his own vindication, he has been compelled to bring before the Court the testimony of those who have known him in and out of the army, who have known him as an officer, and as a man, at home and abroad, who have witnessed his conduct and bearing in the different battles in which he has been engaged, in refutation of the vile slander, by which the prosecutor has sought to blast his reputation as an officer and a gentleman.

But Gen. Evans' own conduct proves that his testimony is false. Would he have this Court believe that he would see an officer occupying an important position in his Brigade, *basely* and *cowardly* desert that command in the hour of battle, pass within twenty paces of him, and he not speak to that officer, *not rebuke him, not order him, not drive him back* to his command? If so, then was Gen. Evans himself shamefully recreant to his own duty, and disgraces the high commission he holds in the army of the Confederate States. But not only does he not notice this conduct on the field, but more than three months is suffered to elapse. The Brigade passes through the battles of Sharpsburg, Kinston and Goldsboro, the accused commanding the Regiments at Sharpsburg which were detached from the Brigade, and his own Regiment in the other two battles; after this the accused with others apply to be relieved from his command, when for the first time does this Brigadier General make complaint of any misconduct on the part of the accused, and this base act of cowardice on the battle field is not brought to the knowledge of the accused until he received it from Major Melton, Gen. Smith's A. A. General, about six months afterwards, as testified to by Capt. Avery.

And this is not all; the battle of Boonsboro is on the 14th of September, and in less than one short month afterwards a Board of Examiners is to be appointed to examine the officers of Gen. Evans' Brigade to ascertain their fitness for promotion; it is the first Board that was convened under the order requiring an examination of officers; and yet Gen. Evans devolves the high and responsible trust upon the accused, and places him upon the Board; the officer who had acted so cowardly under his own eye at the battle of Boonsboro; and, that too, to pass upon the qualifications of officers who were superior to the accused in rank.

How is such conduct to be reconciled with the testimony of Gen. Evans in the cause?

But there is another remarkable feature in *his* testimony. He looks this *flagrant* act of cowardice up in his own heart, and only mentions it to a *higher* officer, who replies, this is no time for Court Martials. This testimony he gives the first day of Court, the second day the accused asked him who was the higher officer with whom he had the conversation; forgetting his testimony of the day before, and thinking the question was put in the plural instead of the singular number, he replied: "I mentioned it to Gen. Lee and Gen. Longstreet, and I may have mentioned it to others." The President of the Court directed the General's attention to the answer of the question the day before; he replied: "I believe I had that conversation with Gen. Ripley."

The first day he speaks positively of a conversation with a *higher* officer, which he could *not forget*, and the second day he *believes* it was with Gen. Ripley, who is with equal grade with himself. Gentlemen, you know, and Gen. Evans knew, when he was testifying, that it was impossible for the accused to bring these Generals before this Court to confront him.

If Gen. Evans has told the truth, then the first charge against the accused is sustained; but that he has not, his own inconsistent statements prove, his location during the battle makes manifest, and the testimony of every other witness who has spoken of the battle of Boonsboro establishes beyond the possibility of a doubt.

He has left for himself no such charitable construction as that he might be *mistaken* in what he has *sworn to*, for he swears that the accused passed within twenty paces of him, and that he was as certain that he saw him as he then saw him in Court; that it was the accused that committed that act of cowardice. There is no escape then from the conclusion to which the Court must inevitably come, however humiliating, however mortifying, however melancholy, it may be.

"Fiat justitia, ruat cœlum!"

The accused has been most bitterly and cruelly wronged by the charge; for, however false and iniquitous it may be, there are parasites around the prosecutor, who, reckless of wounding and wringing a heart, will stealthily insinuate the poison into the itching ears of strangers and credulous friends, and attempt thereby to tarnish the fair fame of

the accused, and entail a heritage of infamy on his blood. Courage is not the noblest trait of man, for he shares it in common with the brute, for all *true* gentlemen are brave, and in the Confederate army we have many gentlemen among officers and privates; but to be destitute of courage is the greatest misfortune that can befall a man. Dr. Johnson says, "A coward is necessarily a liar," and with truth; the converse of the proposition is also true. Courage to the officer is like virtue to woman, the slightest breath of suspicion to it is like the canker to the flower, it loses its beauty and withereth away. Ah! this charge was unfortunate for the prosecutor; it reflects a dark shade upon the others; he fondly imagined the *ipse dixit* of a General was sufficient to crush a poor subaltern. "When Jove nods, Olympus trembles;" he gloated on his victim as he writhed under this accusation; nor did his foul calumny terminate there, he strove to cast shame and obloquy on his name forever.

"But like Dead Sea fruits that tempt the eye,
They turn to ashes on *his* lips!"

Gentlemen, bear with the accused a little while longer, and he is done. All his energies have been devoted to this struggle of independence; he was in Kershaw's Regiment as a private in the siege of Fort Sumter, and in the first battle of Manassas. There it pleased his Colonel to mention him honorably. Since then he has been constantly employed, and is the only field officer in Evans' Brigade who has been fortunate enough to pass through all its battles. Allowing him the ordinary discretion and sense of justice which is allotted to mortals, it would be the height of folly and depravity for him to jeopardize the success of the cause, which is dearer to him and to us all than life itself, by attempting to injure the service by the commission of the crimes with which he is charged. The accused begs pardon of the Court for the personal allusions, which circumstances have rendered necessary.

It is well said of Courts Martial that "not only are the interests and dignity of the law to a large extent confined to them, but the reputation and private rights of individuals are frequently at their disposal." Cowardice is a crime of such magnitude that it is visited by the highest penalty of the law. The good of the service demands it, and reason approves it; but in proportion to the magnitude of the

offence should be the responsibility of the person preferring the charge ; the higher the officer the greater the injury may be done an innocent person on account of the acquiescence usually given to declarations of persons in power ; therefore the greater the obligation a Court of justice is under to hold the prosecutor to a strict accountability. If it is not done, the service is necessarily injured. Where else can the innocent man who has done his duty go to for reparation of an injury, which may blight him for life ? He has no refuge to the civil tribunals of his country. They are closed against him. He cannot publish his prosecutor as a liar and slanderer ; if he does, he is cashiered and disgraced. He cannot resort to physical force ; if he does, he suffers death for striking his superior officer. Every avenue for redress is closed. In mute agony he has to lock up his bitter, burning wrongs in his own heart, and if he is not vindicated before a Court Martial, he is ruined. A simple verdict of not guilty in such cases is not sufficient. The good of the service requires more than an acquittal. Justice demands, honor demands, humanity demands a scathing rebuke to an unrighteous, iniquitous and infamous prosecution, which has been conceived in malice. This case to-day, which is submitted to your impartial hearing, is not the cause of the accused alone, but, gentlemen, it is your cause. If any of you should unfortunately in the discharge of his duty, become the victim of the malice and aspersion of a superior officer, it is the common cause of decency, justice and truth, to judge aright, apply the golden rule of placing yourselves in a similar situation, that the wrongs that are attempted to be heaped on him, were cast on you ; that the *malice* of your prosecutor was only equalled by his *unblushing mendacity* ; that without offence you were disrobed of your authority, and confined for near three months to your camps, and *position* and *artifice* resorted to, to *blast your reputation* !

You, gentlemen, are the guardians of my honor ! I appeal to you, not for mercy, but for justice !

F. W. McMASTER.

The Judge Advocate declined to reply.

HEADQUARTERS,
Richmond, May 13, 1863.

[General Orders No. 30.]

I. At a General Court Martial, convened at Wilmington, North Carolina, by General Orders No. 24, current series, from these Headquarters, Col. F. W. McMaster, of the 17th South Carolina Regiment, was arraigned and tried on the following charges and specifications, preferred by Brig. Gen. Evans, viz :

Charge 1.—Cowardice.

Specification.—In this, that he, Col. F. W. McMaster, 17th Regiment S. C. V., did shamefully leave his Regiment whilst engaged with the enemy, and ran until out of danger. This, near Boonsboro, Md., on or about the 14th of September, 1862.

Charge 2.—Mutinous Conduct.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did attempt to incite a mutiny against his Commanding Officer, Brig. Gen. N. G. Evans, P. A. C. S., amongst the troops of Evans' Brigade, by visiting different officers of the Brigade and asking them to sign a paper to be relieved from the command of the Brigadier General commanding.

Specification 2.—In this, that he, Colonel F. W. McMaster, of the 17th Regiment S. C. V., did exercise himself among the officers and troops of the Brigade, to induce them to sign a paper, asking to be relieved from the command of their Brigadier General, N. G. Evans, P. A. C. S., using false inducements, viz : that by signing said paper they would be ordered to South Carolina ; all of which is mutinous conduct. This, in Camp, near Goldsboro, N. C.

Charge 3.—Violation of General Orders No. 96, and conduct highly prejudicial to good order and military discipline.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of Lieut. E. M. Neely and Private S. A. McElwee, Co. H, both of his Regiment, until

sent for by his Brigade Commander, he, the said Col. McMaster, knowing them to have been absent for several days. This, near Halifax C. H., N. C., on or about the 14th of November, 1862.

Specification 2.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of Assistant Surgeon T. S. Waring, of his Regiment, when he knew that the said Waring had absented himself without leave from the proper authority. This, at Kinston, N. C., on or about the 20th of November, 1862.

Charge 4.—Conduct highly prejudicial to good order and military discipline.

Specification.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did visit Sergeant Kinloch and Private Seignious, Co. "A," 23d Regiment S. C. V., couriers for his Commanding General, and did attempt to incite them to insubordination by stating that Gen. N. G. Evans was a drunkard and a coward, or words to that effect. This, at Wilmington, N. C., on or about — day of February, 1863.

Charge 5.—Conduct unbecoming an officer and a gentleman.

Specification.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. Vols., did state to Sergeant Kinloch and Private Seignious, of the 23d Regiment S. C. Vols., that John Dunovant had sent word to Brig. Gen. N. G. Evans that he was a "coward and a drunkard;" all of which was false. This, at Wilmington, N. C., on or about 12th of February, 1863.

Charge 6.—Violation of 18th Article of War, and conduct highly to the prejudice of good order and military discipline.

Specification 1.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. V., did fail to report the absence of late Captain W. B. Metts, Commissary of his Regiment, and did further connive at and conceal the said absence from his Commanding General, Brig. Gen. N. G. Evans, P. A. C. S.

Specification 2.—In this, that he, Colonel F. W. McMaster, 17th Regiment S. C. Vols., did tell late Captain Metts he might leave his Regiment until his resignation was accepted ; that he, Colonel McMaster, would conceal his absence from the Commanding General, Brig. Gen. N. G. Evans, P. A. C. S. All this, near Opequan River, Va., on or about the 20th of September, 1862.

FINDING.

Of the specification of 1st charge, Not Guilty.

Of the 1st charge, Not Guilty.

The Court do most honorably acquit Col. F. W. McMaster, 17th Regiment South Carolina Volunteers, of every part of the aforesaid charge and specification.

Of the 1st specification of 2d charge, Not Guilty.

Of the 2d specification of 2d charge, except the words, “using false inducements, viz : that by signing said paper they would be ordered to South Carolina, all of which is mutinous conduct,” Guilty.

Of the 2d charge—Not guilty of mutinous conduct ; but of conduct “ prejudicial to military discipline,” Guilty.

SENTENCE.

And the Court do determine that the above finding is a sufficient punishment.

Of the 1st specification of 3d charge, Not Guilty.

Of the 2d specification of 3d charge, Not Guilty.

Of the 3d charge, Not Guilty.

Of the specification of the 4th charge, Not Guilty.

Of the 4th charge, Not Guilty.

Of the specification of 5th charge, Not Guilty.

Of the 5th charge, Not Guilty.

OPINION.—While the Court find that the proof does not sustain charges 4th and 5th and the specifications to them, it desires to express its disapprobation of Col. F W McMaster's conduct in using the

language stated by the witnesses Kinloch and Seignious, in their presence.

Of the 1st specification of 6th charge, Not Guilty.

Of the 2d specification of 6th charge, Not Guilty.

Of the 6th charge, Not Guilty.

OPINION.—The Court is pained to declare that, in its opinion, this prosecution was not undertaken with the spirit and for the purpose of promoting the good of the service. A due consideration for the distinguished services of Brig. Gen. Evans to the Confederacy in this war, restrains the Court from any further expression of its opinion as to the motives that prompted the prosecution.

II. The proceedings in the foregoing case are approved, and Col. McMaster will resume his sword and return to duty.

By order of Lieut. Gen. LONGSTREET.

G. M. SORREL, A. A. G.

APPENDIX.

PAPER MARKED A.

HEADQUARTERS EVANS' BRIGADE,
Goldsboro, N. C., December 18th, 1862.

To the Honorable Secretary of War :

We, the officers representing four Regiments of Evans' Brigade now located at Goldsboro, N. C., most respectfully but earnestly solici you to transfer our Regiments from the command of Brig. Gen. N G. Evans, to some other Brigadier General, as soon as possible.

F. W. McMASTER, Colonel 17th Regiment S. C. V
J. R. CULP, Major 17th Regiment S. C. V
J. W. AVERY, Captain Company F.
W. H. EDWARDS, Captain Company A.
E. A. CRAWFORD, Captain Company K.
J. J. BOYNTON, Commanding Company H.
R. H. MOSS, Sergeant Commanding Company C.
M. H. ROOT, Lieutenant Commanding Company H.
S. R. FANT, Lieutenant Commanding Company B.
E. E. CORNWELL, Sergeant Commanding Company D.
J. F. STEELE, Captain Company I.

22D REGIMENT S. C. V.

M. HILTON, Major Commanding 22d Regiment S. C. V
A. C. PEACE, Captain Company H.
R. V. HASTING, Lieutenant Commanding Company B.
T. N. ABLE, Lieutenant Commanding Company D.
E. H. WATKINS, Lieutenant Commanding Company G.
Lieutenant BELK, Commanding Company E.
W. BIBB, Lieutenant Commanding Company K.
E. J. DEAN, Lieutenant Commanding Companies C and I.

HOLCOMBE LEGION.

J. M. BOST, Captain Commanding Holcombe Legion.
 J. M. MAFFETT, Captain Company H.
 A. B. WOODRUFF, Captain Company E.
 J. A. TOLLESON, Lieutenant Company C.
 T. B. MARTIN, Sergeant Commanding Company I.
 T. L. BRIANT, Lieutenant Commanding Company B.
 R. J. DUNBAR, Lieutenant Commanding Company D.
 A. M. BROWN, Sergeant Commanding Company A.
 A. H. BOBO, Lieutenant Commanding Company F.
 R. M. SCRUGGS, Lieutenant Commanding Company K.
 JOHN WILLIAMS, Lieutenant Company G.

23D REGIMENT S. C. V.

M. V. BANCROFT, Captain Comdg. 23d Regiment S. C. V.
 J. F. ATKINSON, Captain Company F.
 W. G. INGRAHAM, Lieutenant Commanding Company A.
 H. H. LESESNE, Captain Company I.
 W. W. COVINGTON, Lieut. Commanding Company G.
 J. W. DUFFUS, Captain Company B.
 J. L. SWINTON, Lieutenant Commanding Company K.
 A. PERRIT, Lieutenant Company H.

DECEMBER 20TH, 1862.

To Capt. A. L. Evans, A. A. G. :

SIR : As the ranking officer of the representatives of four Regiments whose names are signed above, and in their behalf, I respectfully send you this petition, and beg that you will forward it through the proper channels to the Secretary of War, or General of the Department, whichever may be empowered to make the transfer.

Very respectfully,

F. W. McMASTER,

Colonel 17th Regiment S. C. V.

HEADQUARTERS EVANS' BRIGADE,

December 20th, 1862.

Respectfully returned. The officers will state their reasons for the petition.

By order Brig. Gen. EVANS.

A. L. EVANS, A. A. G.

DECEMBER 20TH, 1862.

In reply to the order of the Brigadier General Commanding, requiring the officers to state the reasons for the petition, the officers commanding the four Regiments would respectfully state, that they are anxious that no obstacle shall be placed in the way of an immediate transfer, that they do not desire to prefer charges, or to do any thing which will consume time and create unpleasant feelings.

They hope, therefore, that the declaration that there is on the part of the officers and men of these Regiments great dissatisfaction with, and want of confidence in Gen. Evans, will be a sufficient reason to induce the authorities to assign them forthwith to the command of some other Brigadier General.

F. W. McMASTER,

Colonel 17th Regiment S. C. V.

M. HILTON,

Major Commanding 22d Regiment S. C. V.

J. M. BOST,

Captain Commanding Holcombe Legion.

M. V. BANCROFT,

Captain Commanding 23d Regiment S. C. V.

HEADQUARTERS EVANS' BRIGADE,

December 20th, 1862.

Respectfully forwarded, with the remark that Col. F. W. McMaster and Capt. Bancroft are now under charges of misconduct before the enemy.

N. G. EVANS,

Brigadier General Commanding.

HEADQUARTERS FRENCH'S DIVISION,

Goldsboro, December 21, 1862.

Inasmuch as the 35th Article of War affords ample redress in any case that may arise, I recommend that this paper be returned to the writers, regarding it disrespectful, if not mutinous in its tendency, or at least showing a spirit of combination among the officers.

S. G. FRENCH,

Major General Commanding.

HEADQUARTERS,
Goldsboro, December 21st, 1862.

Respectfully returned to the writers, with the remark that the endorsement of Maj. Gen. French is approved.

By command of Maj. Gen. G. W. SMITH.

S. W. MELTON,
Major and A. A. G.

EVANS' BRIGADE, December 26th, 1862.

The Commanders of the four Regiments who have petitioned for a transfer, respectfully appeal from the decision of Maj. Gen. French and Maj. Gen. Smith, and beg a reconsideration upon the following grounds :

1. The 35th Article of War is not applicable to their case. Their paper is simply the petition of four Regiments for transfer. In this paper they do not complain of any grievance and seek no redress, but merely expressed their earnest desire to be assigned to another commander, which request they forwarded through the proper channels, and hoped it would be respected.

2. There is no language in the body of the petition which can be construed into disrespect to Gen. Evans. The reason for the petition which was subsequently appended, and which we presume the Major General considered disrespectful, was made upon order of Gen. Evans after the petition was sent up, and therefore the petitioners are exonerated from all blame in the matter.

3. The endorsement of Gen. Evans that Col. McMaster and Capt. Bancroft were under charges of misconduct, induced Gen. French to suppose these charges were a cause of dissatisfaction with them, whereas Col. McMaster and Capt. Bancroft were not aware that there were any charges against them until the petition was returned the 24th inst. Nor do they at present know what those charges are. Therefore Gen. French should not have considered the endorsement of Gen. Evans in deciding on the petition.

F. W. McMASTER,
Colonel 17th Regiment S. C. V.

J. M. BOST,
Captain Commanding Holcombe Legion.

M. V. BANCROFT,
Captain Commanding 23d Regiment S. C. V.

Major Hilton was in command of the 22d Regiment S. C. V when petition was forwarded, and signed the same. I am now in command of the Regiment, and unite in the desire to be transferred to some other command.

S. D. GOODLETT,
Colonel 22d Regiment S. C. V

Copy of a note received by Col. McMaster, December 24th, 1862 :

HEADQUARTERS,

Kinston, N. C., December 24th, 1862.

COLONEL: I am directed by the Brigadier General Commanding to inform you that charges have been preferred against you, a copy of which will be furnished when the Court is ordered for your trial.

Your arrest will be suspended for the present.

Very respectfully,

Your obedient servant,

A. L. EVANS, A. A. G.

COL. F. W. McMASTER, *17th S. C. V.*

DECEMBER 26TH, 1862.

To Capt. A. L. Evans, A. A. G. :

You will please forward these papers through the proper channels.

F. W. McMASTER,

Colonel 17th Regiment S. C. V.

HEADQUARTERS,

Kinston, N. C., December 26th, 1862.

Respectfully forwarded. Col. Goodlett was arrested on the field of battle for cowardice ; his arrest is temporarily suspended.

N. G. EVANS,

Brigadier General Commanding.

HEADQUARTERS,

Goldsboro, N. C., December 29th, 1862.

Respectfully returned. The attention of the officers signing this paper is called to the fact, that in *combining* together to break up the

command of their common superior, they are committing a very grave offence against military law and usage. Complaints and petitions must be presented by each separate individual without collusion, and not by combination, which when entered into by a body of officers against their commander, it is repeated, is in itself a crime which the Major General Commanding (while he may overlook it) cannot consent to endorse.

Whatever complaint, petition or charges may be made by individual officers, or soldiers, on their own responsibility, will receive respectful attention, and such action as justice and right require.

This as well as the former endorsement is made without reference to the merits of this petition, and is intended simply to indicate to Col. McMaster and the officers combining with him, that the method they have adopted for relief is unmilitary and cannot be sanctioned.

By command of Major General G. W. SMITH.

SAML. W. MELTON,

Major and A. A. G.

